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CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 310—MISCELLANEOUS STATEMENTS

Miscellaneous Amendments

The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576, to study the efficiency, adequacy and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574 (1)).

The Administrative Conference of the United States at its Twelfth Plenary Session, held June 5–6, 1975, adopted four Recommendations and one formal Statement. Recommendation 75–1 recommends that Federal agencies which regulate entry into banking provide improved articulation of their standards and objectives in licensing determinations through rules of general applicability, policy statements and opinions in specific cases. Recommendation 75–2 calls for improvements in the procedures for enforcing the affirmative action requirements for nonconstruction employment under Executive Order 11246. Recommendation 75–3 proposes criteria for use by Congress in determining the appropriate forum for judicial review of administrative action. Recommendation 75–4 calls for statutory changes in procedures for ensuring compliance by Federal facilities with environmental quality standards. The Conference Statement proposes that seminars be arranged for top regulatory agency officials by the Conference in the interest of strengthening agency management.

1. The table of contents of Part 305 of Title 1, Chapter III, CFR is amended to add the following sections:

Sec.

2. Section 305.75–1 is added to Part 305 to read as follows:

§ 305.75–1 Licensing Decisions of the Federal Banking Agencies (Recommendation No. 75–1).

(a) Entry into banking is controlled on the federal level by four agencies: the Comptroller of the Currency (for charters and branches of national banks), the Federal Home Loan Bank Board (for charters and branches of federal savings and loan associations, and via the Federal Savings and Loan Insurance Corporation for account insurance for state-chartered savings and loan associations), the Board of Governors of the Federal Reserve System (for FRS membership and accompanying FDIC deposit insurance for state-chartered banks, and for branches of state member banks), and the Federal Deposit Insurance Corporation (for deposit insurance for state banks that are not FRS members, and for branches of such banks).

(b) The statutes which confer these powers of approval over entry into banking and banking markets contain sketchy standards, or none at all, defining how the administrative authorities should exercise their judgment. The statutory void has not as yet been filled by the agencies themselves; none of them has adopted comprehensive statements of policy or meaningful rules of general applicability, though recently the Federal Reserve and FDIC have taken steps in this direction.

(c) In acting upon such applications, the agencies usually do not hold hearings or issue reasoned opinions. As a consequence, little authoritative information is available concerning the policies the agencies follow in exercising their broad powers over entry into banking markers and in granting valuable authorizations to some applicants and denying them to others.

(d) Increasingly within the last two decades, these decisions—particularly those of the Comptroller—have been subjected to judicial review. The absence of adequate explanatory opinions by the agency has impeded review that is both meaningful and limited. Reviewing courts have too often been forced to choose between pro forma validation of agency action or substitution of the court's judgment for that of the agency.

(e) This recommendation, addressed to the agencies, is directed at the point of greatest initial need: the provision of explanation of policies and decisions. That can be accomplished in a variety of ways, and the recommendation distinguishes between different agency roles and types of decision, in a manner intended to avoid unnecessary demands upon agency resources. Moreover, the Freedom of Information Act (5 U.S.C. 552) requires agencies to make available to the general public whatever statements of agency policy and opinions in individual cases they have prepared. This recommendation is in furtherance of those statutory objectives.

(f) Applications are sometimes, though not often, rejected on grounds that the agency believes would be substantially injurious to a bank or individual if made public. This possibility is not a justification for a general policy of non-explanation; it should not be automatically applied to shield all negative information. Occasionally, nevertheless, the agency may believe that it would be warranted in not disclosing certain information. If the information pertains to the applicant bank or group, the applicant could be afforded the option of withdrawing its request; if it pertains to an objecting bank, the ground could be stated in general terms, such as "to prevent an adverse impact on other institutions." The extent to which supporting evidence should be revealed in camera or by some other confidential method, if judicial review were subsequently sought, is left to be decided under existing law and is outside the scope of this recommendation.

(g) The present recommendation has limited reach. It is not intended to express either approval or disapproval of the present system of entry controls in banking, nor is it addressed to the extent of statutory discretion possessed by the federal banking agencies in their licensing decisions, which is exceptionally broad and would remain so if this recommendation were fully accepted. What is now proposed is, simply, that when this broad discretion is exercised, the agencies should articulate their decisional standards and underlying policy objectives in a way that would facilitate understanding and evaluation on the merits.

Recommendation

1. *General.* The federal banking agencies should undertake to provide a full statement of their objectives in approving or denying applications for charters, membership, or permission to establish branches, and should define in concrete terms the standards to be applied. This can be done best by the adoption of policy statements and rules of general applicability, which should be as specific as possible. To provide additional clarity and understanding, reasoned opinions should be issued in situations described below.

2. *Chartering authority decisions: Comptroller and Federal Home Loan Bank Board.* Charter decisions are of high importance and relatively low in

number. An explanatory opinion should be furnished as a matter of course in all charter denials, since this is the most critical entry barrier; when requested, explanation of favorable action upon an application should be provided to any objecting party or to any interested federal agency.

In the case of branch applications, the numbers are large and many approvals seem a matter of routine. Probably only a small minority of approvals, but a much larger fraction of denials, would occasion a desire or need for explanation. For branches, therefore, the comptroller and FHLBB should furnish written opinions when the agency believes the case presents issues of general importance, or when requested by an applicant, an objecting party or an interested federal agency.

3. *Secondary supervisor decisions: Federal Reserve Board, Federal Deposit Insurance Corporation, and Federal Savings and Loan Insurance Corporation.* Branch approvals by the FRB and FDIC seem well nigh automatic, no doubt because of reliance on the primary approval of other authorities, and an opinion requirement in all cases would be excessive. For branches, therefore, the FRB and FDIC should also furnish written opinions when requested or when the agency believes the case presents issues of general importance.

Membership applications may not fall wholly into the same category, though only the FSLIC has a significant rejection ratio. Written opinions should be furnished on request, which would presumably be made infrequently by others than disappointed applicants.

4. *Publication.* All four agencies should systematically collect and publish their licensing opinions in some convenient form. Depending on frequency and length, those of general importance might be included as part of monthly publications such as the *Federal Reserve Bulletin* or *Federal Home Loan Bank Board Journal*, or as an appendix to annual reports; others might be published as a separate series and made available in public files at the agency's Washington and field offices.

3. Section 305.75–2 is added to Part 305 to read as follows:

§ 305.75–2 Affirmative Action for Equal Opportunity in Nonconstruction Employment (Recommendation No. 75–2).

(a) Executive Order 11246, which concerns equal employment opportunity, applies to all contractors with the Federal government. Pursuant to this executive order, the Department of Labor has promulgated one set of regulations prohibiting discrimination and requiring affirmative action to govern contractors in the construction industry, and another set of such regulations to govern all other contractors.

(b) A study of the application of the nonconstruction regulations to university faculty employment practices illustrates that the use of a single set of regulations for all nonconstruction employment can fail to take adequate account of important special circumstances of major employment categories. With respect to university faculty employment, for example, the regulations as applied have generated difficulties arising from failure to take account of the limited supply of qualified personnel in various disciplines, the nonquantifiability of standards for academic personnel, the diversity of institutional needs fulfilled by academic personnel (e.g., research, teaching, public service), different types of institutions (e.g., research universities, community colleges), and the concept of peer review in academic employment practices. It seems evident that difficulties of the sorts experienced in the application of the nonconstruction regulations to academic employment in higher education will be encountered in their application to other employment categories as well.

(c) The study further suggests that contract cancellation is in many cases too severe or impracticable as the primary sanction for noncompliance with equal employment opportunity regulations; in practice, cancellation is rarely used. The more common sanction, as in the field of higher education employment, is the declaration of nonresponsibility of an employer. Unlike the procedures leading to other sanctions, such as debarment of a contractor or cancellation of a contract, no opportunity for prior hearing is afforded in connection with a declaration of nonresponsibility. The provision of an opportunity for hearing before imposition of any sanction under the contract compliance program will tend to assure the fairness and reliability of administrative determinations and to encourage responsible and consistent application of policy.

RECOMMENDATION

1. The Department of Labor, in consultation with the compliance agencies, should promptly commence a review of the contract compliance program applicable to nonconstruction contractors to determine whether regulations more closely adapted to the characteristics of specific occupations or industries are required, considering especially (1) variations in the susceptibility of types of employment to uniform or quantifiable methods of evaluating and predicting performance and (2) variations in policies of recruitment and advancement and in other personnel practices.

2. The Department of Labor should develop a system of graduated sanctions for breach of the obligation contained in the equal employment opportunity clause of government contracts, and should seek legislation to this end as may be necessary.[1]

3. A sanction, including that of declaration of nonresponsibility on equal employment opportunity grounds made prior to the award of a contract, should not be imposed except after opportunity for a hearing (whether evidentiary or informal) at which the validity of the claim of breach, or assertion of nonresponsibility, and the appropriateness of the proposed sanction may be placed in issue.

4. In performing its responsibilities for contract compliance in higher education the Department of Health, Education, and Welfare should (a) provide regional office staffs with uniform and clearly defined policies, (b) recruit and assign staff who are familiar with institutions of higher education for administration of the program in higher education, (c) consult widely with representatives of higher education institutions and other interested groups in developing and administering its compliance rules and policies, and (d) strengthen coordination of its administration of regulations applicable to higher education with other agencies having overlapping responsibilities, in particular the Equal Employment Opportunity Commission and the Wage and Hour Administration of the Department of Labor.

4. Section 305.75–3 is added to Part 305 to read as follows:

§ 305.75–3 The Choice of Forum for Judicial Review of Administrative Action (Recommendation No. 75–3).

(a) This recommendation states criteria for use by the Congress in determining the appropriate forum for judicial review of federal administrative action.

(b) The present forum for the review of most agency actions taken on formal evidentiary records is the court of appeals under specific statutory provisions. There are some exceptions. An important one concerns decisions of the Social Security Administration on claims of old-age, survivors' and disability benefits, which are reviewable in the first instance by district courts with subsequent recourse to the courts of appeals.

(c) The jurisdictional picture is less clear with respect to informal administrative action, both notice-and-comment rulemaking and non-record adjudication.

(d) Some recent statutes provide specifically for review by courts of appeals of rules of general applicability promulgated without an evidentiary hearing. There is much uncertainty, and conflicting authority, as to whether older statutes providing for direct appellate review of agency "orders" apply to such rules. In the case of agencies not subject to specific court of appeals review provisions, rules are ordinarily reviewed by district courts under the general review provisions of the Administrative Procedure Act.

(e) Orders entered after non-record adjudications by agencies whose "orders" generally are subject to court of appeals review typically are reviewed in the courts of appeals, although there is some old and more-or-less neglected authority that casts doubt on the practice. Orders of other agencies entered after non-record adjudications are reviewed in the district courts under the general review provisions of the Administrative Procedure Act.

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[1] In this connection the Department should consider Conference Recommendation 71–9: Enforcement of Standards in Federal Grant-in-Aid Programs, and Recommendation 72–6: Civil Money Penalties as a Sanction.

(f) Legislation that conformed to the criteria set forth in this recommendation would not significantly alter the pattern described above but would clarify the pattern at its edges. Such legislation would eliminate the uncertainty and consequent needless jurisdictional litigation that have resulted from the ambiguity of existing statutory review provisions in their application to informal agency actions, rules and orders. It would have the additional desirable effect, particularly important now because of the acute and increasing caseload pressure on the courts of appeals, of helping to avoid burdening these courts with administrative review cases that are less suitable for them than others.

(g) This recommendation rests on three basic prémises. First, direct review by the courts of appeals, where feasible, is generally desirable in the interest of efficiency and economy, as respects both litigants and the judicial system. The classic case for the courts of appeals is review of agency action taken on an evidentiary record. A second premise, however, is that direct review by the courts of appeals is not necessarily rendered unfeasible by the absence of such a record; the records generated by the processes of notice-and-comment rulemaking and of informal adjudication are frequently adequate to the purpose of judicial review and, also, can usually be supplemented without the necessity of a judicial trial. The third, and qualifying, premise is that review by the courts of appeals, even when review is of a purely appellate nature or, if not so, can feasibly be conducted by the courts of appeals, is not invariably desirable. The courts of appeals, burdened by rapidly increasing caseloads that threaten the quality of their decisions, constitute a scarce resource that should be reserved, to the extent possible, for the resolution of issues of law or policy issues of major impact; administrative review cases that do not present such issues and that would not ordinarily reach the courts of appeals unless brought there initially should be assigned instead to the district courts.

(h) Before the study on which the recommendation is based was made the Conference necessarily passed upon particular questions of choice-of-forum for judicial review in connection with individual studies and the recommendations emanating therefrom. Instances are Recommendations 72–6 (court of appeals review of civil money penalties prescribed on a record); 72–7 (district court review of non-record selective service preinduction orders); 74–3 (court of appeals review of mining claims decided on a record). The Conference has not caused these recommendations to be restudied in the light of the new criteria but believes that the recommendations remain appropriate.

RECOMMENDATION

1. Adjudications based on trial-type hearings and rules required by statute to be based on a hearing with a determination on the record should generally be made directly reviewable by courts of appeals. For certain types of formal administrative action to be reviewed is of a trict-court review may be appropriate in the interest of conserving the scarce and over-extended resources of the federal appellate system. The district court should not be interposed unless the admistrative action to be reviewed is of a type (a) that rarely involves issues of law or of broad social or economic impact warranting routine review by a multimember court and (b) such that district court review would significantly reduce the workload of the appellate courts. The latter condition is met only where the class of orders to be reviewed is numerous and, if reviewed initially by district courts, would infrequently give rise to further appeal.

2. For any class of formal administrative action that, even after initial district-court review, generates a large and burdensome volume of appeals, only a small proportion of which involve legal issues or issues of broad social or economic impact, Congress should consider the advisability of making appeals discretionary or of allowing appeals only upon certification by the district court. Under a system of discretionary appeals, leave to appeal, either by the agency or by an aggrieved party, should be granted only in cases where issues of law or of broad impact are involved.

3. Orders of the Social Security Administration with respect to claims for disability, health insurance, retirement or survivors' benefits should continue to be reviewed in the first instance by district courts. If the volume of social security appeals increases as dramatically as projected, Congress should consider the advisability of placing appellate review on a discretionary basis.

4. Orders of the Department of Labor Benefits Review Board with respect to black-lung compensation claims under the Black Lung Act of 1972 are now subject to direct review by courts of appeals in accordance with the provisions of the Longshoremen's and Harbor Workers' Compensation Act. Congress should consider the advisability of providing for initial district-court review of such orders.

5. The appropriate forum for the review of rules promulgated pursuant to the notice-and-comment procedures of 5 U.S.C. 553 should be determined in the light of the following considerations:

(a) Absence of a formal administrative record based on a trial-type hearing does not preclude direct review of rules by courts of appeals because (i) compliance with procedural requirements of 5 U.S.C. 553, including the requirement of a statement of reasons for the rule, will ordinarily produce a record adequate to the purpose of judicial review, and (ii) the administrative record can usually be supplemented, if necessary, by means other than an evidentiary trial in a district court.

(b) Direct review by a court of appeals is appropriate whenever (i) an initial district court decision respecting the validity of a rule will ordinarily be appealed or (ii) the public interest requires prompt, authoritative determination of the validity of the rule.

(c) Rules issued by agencies that regularly engage in formal adjudication and whose "orders" are subject by statute to direct review by the courts of appeals will normally satisfy the criteria of (b) above and in any event should be reviewable directly by the courts of appeals.

(d) Rules of other agencies that do not satisfy the criteria of (b) above should generally be reviewable in the first instance by the district courts.

6. (a) Informal administrative actions, other than rules, should generally be reviewable in the first instance by the district courts.

(b) The court of appeals is the appropriate reviewing forum for informal actions that, as a class, fulfill all of the following conditions:

(i) Typically involve issues of law or of broad social or economic impact,

(ii) Typically do not require an evidentiary trial at the judicial level to determine either the underlying facts or the grounds or evidence on which the agency based its action; and

(iii) Are either few in number or, if numerous, would in most cases be likely to reach the appellate courts eventually even if reviewed initially by district courts. Informal orders issued by agencies that mainly engage in formal adjudication and the formal orders of which are now subject by statute to direct review by the courts of appeals will normally satisfy these conditions and should therefore be reviewable by the courts of appeals. There is, however, at least one exception. Informal, discretionary orders of immigration officials related to deportation, but not issued as part of any formal deportation proceeding, should continue to be reviewable in the first instance by the district courts.

7. Statutes that give courts of appeals jurisdiction to review informal orders or rules should contain provisions, similar to that now contained in the Administrative Orders Review Act, 28 U.S.C. 2347, authorizing transfer of proceedings to a district court where a factual issue requiring a judicial trial is presented.

8. A federal court which determines that it does not have jurisdiction of a judicial review proceeding should be authorized to transfer the proceeding, in the interests of justice and expedition, to a federal court appearing to have jurisdiction.

SEPARATE STATEMENT OF MALCOLM S. MASON AND ROBERT L. TRACHTENBERG

This is, we believe, the first time the Conference has chosen to make an important recommendation without obtaining in advance the views of the agency most affected and best informed. Paragraph 3 of the recommendation deals specifically with review of Social Security cases. Paragraphs 1 and 2 are more general, but the discussion focused primarily on Social Security cases and did not have the benefit of specific comment by the Social Security Administration.

In a recent 4 week period that seems representative, over 95 percent of the liti-

gated Social Security cases turned on factual issues of disability. The other 5 percent turn on issues of law often of constitutional dimension; as to these it is neither desirable nor useful that the review process be encumbered by a screening at district court or appeal court level.

The disability fact cases come to the courts under a substantial evidence test with the benefit of analysis by several levels of agency staff, an administrative law judge and possible appeals council review of fact findings on which the agency at several levels and a district court have concurred; the likelihood of reversal is extremely small. In the few cases in which the agency appeals, it is, by set policy, seeking review of a case in which there is an issue of broad consequence and in which there is a conflict between a conclusion of the agency at several levels of administration and a district court; the likelihood of reversal is presumably increased.

The proposal for appeal limited by discretion of the appeal court, or worse, by the district court, is bad in principle and probably unnecessary. If considered at all it should be viewed with due attention to these principal differences. Despite large volume, appellate review is ordinarily as quick and undemanding as a discretionary screening would be. The multi-tiered appeal process has had a beneficial effect on the program.

We believe that section 3 should have been deleted, particularly sentence 2 of section 3, and sections 1 and 2 should have been reconsidered in the light of that deletion to avoid reliance on impressions about Social Security cases without the benefit of such guidance as advance consultation with the agency might have given.

5. Section 305.75–4 is added to Part 305 to read as follows:

§ 305.75–4 Procedures To Ensure Compliance by Federal Facilities with Environmental Quality Standards (Recommendation No. 75–4).

(a) The Federal Government owns or operates over 20,000 facilities, ranging from huge military establishments, national parks, and systems of prisons and veterans' hospitals to individual fish hatcheries, Coast Guard stations and research laboratories. All of these facilities are required by federal law to comply with environmental quality standards established by national, State or local law.

(b) As part of the Federal environmental protection program, a 1973 executive order directs federal agencies to assess their pollution control needs, develop plans for improvement and submit those plans and necessary budget requests for inclusion in the President's Annual Budget. This program has achieved significant results. Approximately $2.4 billion has been expended over the past eight years to improve and install pollution abatement equipment at federal facilities. Nonetheless, instances of noncompliance by federal facilities have persisted. Moreover, there are wide variations among the respective programs concerned with air, water, noise, solid waste and ocean dumping, in the openness and effectiveness of the procedures for securing federal facility compliance.

(c) The Clean Air Act, the Federal Water Pollution Control Act, and the Noise Control Act each require agencies with control over federal facilities to comply with both federal and nonfederal pollution control standards "to the same extent (as) any person," unless otherwise exempted by statute. The Marine Protection Act requires all "persons," including federal officials, to obtain a federal permit before dumping waste material in the ocean. Under the Solid Waste Disposal Act, federal agencies need comply only with the United States Environmental Protection Agency's guidelines, which are less stringent than those of some States and localities.

(d) The Federal air, water, noise control, and solid waste statutes do not establish or specifically authorize procedures for their enforcement where federal facilities are concerned. This problem is acute when considering nonfederal environmental quality standards, which constitute the bulk of the environmental standards federal facilities must meet, because the nonfederal efforts to impose their enforcement procedures have been challenged by federal agencies. Two United States Courts of Appeals have reached opposite conclusions concerning the authority of States to require federal facilities to obtain air emission control permits required of all nonfederal sources of air pollution; a third Court of Appeals has held that federal facilities must comply with State permit requirements with respect to water quality. But any decision, even of the Supreme Court, will leave substantial procedural problems. If the authority of the States to impose their permit and other enforcement procedures upon federal facilities is upheld, some agencies will have to comply with a multitude of different State and local procedures. Because of the insufficiencies of the statutory provisions, a result denying such authority to the States would leave only the present fragmentary and ineffective federal procedures to ensure the compliance of federal facilities with environmental quality standards.

RECOMMENDATION

1. (a) The Clean Air Act, the Noise Control Act and the Federal Water Pollution Control Act should be amended to vest in a single federal agency the exclusive authority to develop and administer procedures to ensure compliance by federal facilities with nonfederal environmental quality standards. That agency should consider the use of emission control permits where they are not now employed.

(b) If the Congress amends the Solid Waste Disposal Act to require that federal facilities comply with nonfederal environmental quality standards, the amendment should vest in the single federal agency referred to in paragraph (a) the exclusive authority to develop and administer procedures for compliance with such standards by federal facilities.

2. Procedures employed to ensure compliance by federal facilities with State, interstate and local environmental quality standards should provide for (i) local public notice and notice to local officials, (ii) opportunity for a public hearing (but not for a trial-type hearing except on issues of specific fact that the agency finds may best be resolved by trial-type hearing), and (iii) authority for the presiding officer at any such hearing to make recommendations concerning compliance.

6. The table of contents of Part 310 of Title 1, Chapter III, CFR is amended to add the following section:

Sec.
310.4 Strengthening Regulatory Agency Management Through Seminars for Agency Officials.

7. Section 310.4 is added to Part 310:

§ 310.4 Strengthening Regulatory Agency Management Through Seminars for Agency Officials.

In pursuance of its continuing concern with the effective management of collegial regulatory agencies,[1] the Conference approves the following statement.

(a) In multimember regulatory agencies, the division of collegial responsibilities makes agency management unusually complex. The working relationships in a collegial setting involving chairmen, members, and top staff are unique in a number of respects. They are foreign to the dominant experience of many who find themselves involved in them. Previously learned ways of doing things must be undone and new knowledge forged from experience.

(b) The objectives of prior efforts to strengthen the managerial role of the chairmen of collegial agencies have largely been realized. Although the preeminence of chairmen in the management realm is generally established, there remains some ambiguity in their role in relation to the role of members. This condition frequently results in some underlying tension in chairman-member relationships. But differences are seldom openly articulated and worked through. When differences arise, they are likely to appear in the context of particular issues, and not in a way that provokes attention to general questions about working relationships.

(c) Chairmen, though thrust into a more active managerial role than other agency members, sometimes seem unenthusiastic about management-related matters and have had limited preparation for this aspect of their responsibilities. Other agency members, who in a broad sense are ultimately charged with responsibility for management, likewise

[1] See Views of the Administrative Conference on the "Report on Selected Independent Regulatory Agencies" of the President's Advisory Council on Executive Organization, adopted May 7, 1971.

often appear to lack interest in management matters, such as setting regulatory priorities and resource allocations. As a result, there is little focused attention given at the top of the agencies to the larger management questions and particularly to the nature and viability of the processes through which major management determinations are made.

(d) Although differences among agencies must be recognized fully in treating problems of regulatory management, there are certain commonalities. Even if experiences are not always directly transferable, there will be positive effects that result from their exchange. Yet there has been very little systematic communication among the agencies, especially at the level of chairmen and commissioners.

(e) Well-planned and adeptly conducted seminars are uniquely suited to developing perspectives and understandings related to the roles of chairmen and members, stimulating interest in particular problem areas, suggesting approaches to problem-solving, and exchanging information about organizational performance. The value of such endeavors has been demonstrated through a number of programs aimed at groups of officials not unlike regulatory officials. New members of Congress participate in such enterprises. And the seminars regularly conducted for members of the Federal judiciary by the Federal Judicial Center are especially relevant. Regulatory agency performance thus should be improved by affording agency members the opportunity to participate in seminars at which they can exchange views with officials of other agencies on management problems, alternative and innovative approaches to policy formulation, intra- and inter-agency and governmental relationships, and methods of dealing with the complex role questions presented when regulatory problems are administered in a collegial setting.

(f) In exercise of its statutory authority to arrange for interchange among administrative agencies of information potentially useful in improving administrative procedure," the Administrative Conference should arrange for the conduct of periodic seminars for regulatory agency officials. Participants should be drawn principally from among the chairmen, members, and senior staff of the independent regulatory agencies, and the agencies should cooperate in arranging their participation. In the seminars, special emphasis should be placed on the interests and needs of officials who are newly appointed to their positions. The seminars should deal with matters basic to agency performance, such as budget and personnel policies and procedures; priority setting; relationships with Congress, departments and agencies, and the Executive Office of the President; and the implications of the Administrative Procedure Act for the management of regulatory programs.

(g) The seminars should be scheduled at the discretion of the Chairman of the Administrative Conference. The participating agencies should play a role in planning the seminars, as should the U.S. Civil Service Commission. The seminar format should be flexible and should emphasize informal problem-oriented group discussion, with "expert" informational inputs as necessary, rather than formal presentations. Reliance should be placed on the participants themselves and on others experienced in the regulatory process, including former members and chairmen. Each seminar should be evaluated by the partcipants as an aid to improving subsequent efforts.

Dated: June 26, 1975.

RICHARD K. BERG,
Executive Secretary.

[FR Doc.75-17213 Filed 7-1-75;8:45 am]

Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER D—TRANSPORTATION

PART 54—CLAIMS AGAINST THE UNITED STATES RELATING TO TRANSPORTATION SERVICES

Statutory Limitations

Public Law 93-604 reduces to six years the period of limitations applicable to claims cognizable by the General Accounting Office, other than claims relating to transportation services furnished for the account of the United States covered by the three-year period of limitations provided in 49 U.S.C. 66; and 4 CFR 54.6a(b) is amended to reflect the applicability of such six-year period to claims of carriers and others not covered by the three-year period. Also 4 CFR 54.6a(a) is revised to reflect the applicability of the three-year period to claims of carriers involving rates subject to regulation by the Federal Maritime Commission and State regulatory agencies under 49 U.S.C. 66, as amended by Pub. L. 92-550, 86 Stat. 1163.

§ 54.6a Statutory Limitations on Filing Claims in the General Accounting Office.

(a) *Three-year statute of limitations.* 49 U.S.C. 66 imposes a three-year limitation on the filing of claims cognizable by the General Accounting Office when such claims involve charges for transportation within the purview of that section. Claims in this category are those which involve transportation charges of any carrier or forwarder based on tariffs lawfully on file with the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, or any State transportation regulatory agency or based on rates, fares, and charges established pursuant to section 22 of the Interstate Commerce Act, 49 U.S.C. 22, or other equivalent contract, arrangement, or exemption from regulation. The filing of a claim with some other agency of the Government will not meet the requirements of this statute; the claim must be received in the General Accounting Office within three years after the date such claim first accrued.

(b) *Six-year statute of limitations.* 31 U.S.C. 71a(a) as amended by the act of January 2, 1975, 88 Stat. 1965, imposes a six-year limitation on the filing of claims cognizable by the General Accounting Office under 31 U.S.C. 71 and 236. This limitation applies to all claims involving charges for transportation other than those claims covered by 49 U.S.C. 66 (see paragraph (a) of this section). The filing of a claim with some other agency will not meet the requirements of this statute; the claim must be received in the General Accounting Office within six years after the date such claim first accrued.

[Sec. 311, 42 Stat. 25, as amended, 31 U.S.C. 52. Interpret or apply Secs. 1, 2, 54 Stat. 1061, as amended by Sec. 801, 88 Stat. 1959, 1965, 31 U.S.C. 71a; Sec. 2, 72 Stat. 860, as amended, 49 U.S.C. 66.]

[SEAL] ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.75-17184 Filed 7-1-75;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that the Rehabilitation Services Administration has been transferred from the Social and Rehabilitation Services to the Office of the Assistant Secretary for Human Development and that one position of Confidential Assistant to the Commissioner of Rehabilitation Services Administration is excepted under Schedule C.

Effective July 2, 1975, § 213.3316(n) (15) and (16) are added and (o) (5) is revoked as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * * *

(15) One Confidential Assistant to the Commissioner of Vocational Rehabilitation.

(16) One Confidential Assistant to the Commissioner of Rehabilitation Services Administration.

(o) *Social and Rehabilitation Service.* * * *

(5) [Revoked]

((5 U.S.C. 3301, 3302); EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-17204 Filed 7-1-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one additional position of Private Secretary to the Attorney General and

one position of Private Secretary to the Executive Assistant to the Attorney General are excepted under Schedule C.

Effective July 2, 1975, § 213.3310(a)(1) is amended and (a)(10) is added as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.*

(1) Two Private Secretaries to the Attorney General.

* * *

(10) One Private Secretary to the Executive Assistant to the Attorney General.

((5 U.S.C. 3301, 3302); E.O. 10577, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75–17205 Filed 7–1–75;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—SCHOOL LUNCH PROGRAM

[Amendment No. 1]

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Extension of Program and Deletion of Partial Medical Evaluation

1. On May 28, 1975, Pub. L. 94–28 was enacted to extend the WIC Program from July 1, 1975 through September 30, 1975. Notice is hereby given that the WIC Program will continue through September 30, 1975, in view of the extension of the legislation.

2. On December 27, 1974, there were published revised and reorganized WIC Program regulations (39 FR 44728). Section 246.15(c) required a report on the partial medical evaluation by July 31, 1975, a month after the expiration of the authorizing legislation and termination of the program. Although a final rule was adopted, interested persons were invited to submit comments, in compliance with the spirit of public rulemaking. It was stated that, if necessary, appropriate amendments would be made (paragraph 12 of the preamble). Since the intent of the law is effectuated by the detailed medical evaluation and by the evaluation of WIC program operations for administrative efficiency and effectiveness, the regulations are being amended to delete the report requirement of § 246.15(c).

Accordingly, this Part is amended to delete § 246.15(c), as follows:

§ 246.15 Medical Evaluation.

* * * * *

(c) [Removed]

Effective date: This amendment shall become effective on July 1, 1975.

Signed at Washington, D.C. on June 30, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.75–17302 Filed 7–1–75;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Peach Reg. 6, Amdt. 1]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

This amended regulation, issued pursuant to the Marketing Agreement and Order No. 917 (7 CFR Part 917), continues the currently effective peach grade and size regulation to include all peach shipments during the 1975 season. Unless amended, such regulation would end on July 4, 1975. The regulation prescribes appropriate minimum sizes, by variety, and a minimum grade of U.S. No. 1 for all California peaches entering interstate commerce. Such regulation is designed to provide markets with an ample supply of desirable size and quality peaches consistent with the available supply in the interest of consumers and producers. The marketing agreement and order are effective pursuant to Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Notice was published in the FEDERAL REGISTER issue of June 11, 1975 (40 FR 24908), that the Department was giving consideration to a proposal to amend § 917.437 (Peach Regulation 6; 40 FR 21694), effective pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, to: (1) Continue the U.S. No. 1 grade requirement, applicable to all varieties of California peaches in fresh interstate shipments, to include all such shipments during the 1975 season, (2) continue, throughout the 1975 season, the specified minimum size requirements applicable to certain varieties listed in the regulation, (3) continue through July 10, 1975, the current minimum size (Size 96) for all varieties not listed in the regulation, and (4) specify, from July 11 through October 31, 1975, Size 80 as the minimum size for such unlisted varieties. This notice allowed interested persons until June 21, 1975, to submit data, views, or arguments for consideration relative to such proposed extension. No such material was submitted.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Peach Commodity Committee, established under the said amended marketing agreement and order, and other available information, it is hereby found that the limitation of handling of California peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of such peaches are currently in progress and this amendment should be applicable to all peach shipments occurring during the effective periods specified herein in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice; (3) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (4) this amendment was unanimously recommended by the Peach Commodity Committee members in an open meeting at which all interested persons were afforded an opportunity to submit their views.

Order. Section 917.437 (Peach Regulation 6; 40 FR 21694) is amended by adding a new paragraph (c) and by revising the provisions of paragraph (a) preceding subparagraph (1) thereof and of paragraph (b) to read as follows (the full text of paragraph (b) is repeated for purposes of clarity):

§ 917.437 Peach Regulation 6.

Order. (a) During the period May 20, 1975, through May 31, 1976, no handler shall handle: * * *

(b) During the period May 20 through July 10, 1975, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), (5), or (6) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches when packed in any container, other than molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2⅛ inches in diameter as measured by a rigid ring: *Provided,* That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirements.

(c) During the period July 11 through October 31, 1975, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), (5), or (6) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray packed in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a

size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(3) Such peaches, when packed in any container other than a No. 12B standard fruit (peach) box or molded forms (tray pack) in a No. 22D standard lug box, measure not less than 2⅜ inches in diameter as measured by a rigid ring: *Provided,* That not more than 10 percent, by count, of the peaches in any such container may fail to meet such diameter requirement.

* * * * *

(Secs. 1–19, Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, June 27, 1975, to become effective July 3, 1975.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75–17252 Filed 7–1–75;8:45 am]

PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

Limitation of Handling

This amendment of the rules and regulations under Marketing Order 930 prescribes a minimum grade of U.S. Grade B for reserve pool cherries, establishes a uniform handler charge for fiscal 1975–76 at 13.36 cents per pound for processing, freezing, and the first 30 days storage of such cherries and sets a uniform storage charge of 6 cents per container for each additional month of storage.

Notice was published in the FEDERAL REGISTER issued May 16, 1975 (40 FR 21483), that the Department was giving consideration to proposed amendment to the rules and regulations (Subpart—Rules and Regulations, 7 CFR Part 930.-101–930.161), currently in effect pursuant to the applicable provisions of marketing Order No. 930 (7 CFR Part 930), regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The aforesaid amendment to the rules and regulations as proposed was unanimously recommended by the Cherry Administrative Board, the agency established under said order to administer the provisions thereof. No written data, views, or arguments were filed with respect to said proposal during the period specified therefor in the notice.

After consideration of all relevant matter presented, including that in the notice, it is hereby found that amendment, as hereinafter set forth, of said rules and regulations is in accordance with said marketing order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The acquiring and handling of cherries are expected to begin on or about July 7, 1975, and this amendment should be applicable, insofar as practicable, to all such cherries; (2) notice was given of the proposed amendment through publicity in the production area and publication in the May 16, 1975, issue of the FEDERAL REGISTER; and (3) compliance with this amendment will not require of handlers any preparation that cannot be completed by the effective time hereof.

Order. The amendment is as follows:

1. Paragraphs (c) and (d) of § 930.104 are amended to read as follows:

§ 930.104 Reserve pool requirements.

* * * * *

(c) Such cherries, for each handler who freezes cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of said handler: *Provided,* That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade A and the remainder not lower than U.S. Grade B (§§ 52.801–52.812 of this title) unless otherwise exempted by the Board.

(d) Such cherries, for each handler who does not freeze cherries and therefore obtains reserve cherries from another handler who does freeze cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of the handler who freezes such cherries: *Provided,* That not less than 50 percent of said reserve pool cherries shall grade not lower than U.S. Grade A and the remainder not lower than U.S. Grade B (§§ 52.801–52.812 of this title) unless otherwise exempted by the Board.

2. Section 930.158 is amended to read as follows:

§ 930.158 Handler compensation charge.

During the fiscal period ending April 30, 1976, each handler shall be compensated, as provided by § 930.58, by producers having an interest in the reserve pool, or their successor in interest:

(a) At the rate of $0.1336 (13.36 cents) per pound of reserve pool cherries received as raw unpitted cherries, and processed into the form of 5 plus 1 frozen cherries (five pounds of raw pitted cherries combined with one pound of sugar) packed in new 30-pound capacity containers as may be prescribed by the Board, as specified in § 930.104(a), of this subpart, and for storage in a suitable freezer storage facility for 30 days from the date the reserve pool cherries are placed in such storage facility; and

(b) At the rate of 6 cents per container per month for storage thereafter in a suitable freezer storage facility.

Dated, June 27, 1975, to become effective July 7, 1975.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75–17254 Filed 7–1–75;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—GUARANTEED LOANS

[FmHA Instructions 449.1 and 449.3]

PART 1843—FARMER PROGRAMS

Loan Subsidy Rates, Claims, and Payments

This amendment applies to loans on which a "conditional commitment for Guarantee" is issued after close of business, June 30, 1975. This amendment is being published without notice of proposed rule making inasmuch as the interest rate to be charged is set by § 1843.3 of this part. The proposed rule making procedure is therefore unnecessary.

Section 1843.3, Part 1843, Title 7, Code of Federal Regulations (38 FR 29051, 30102, 30533; 39 FR 15868) is amended by revising paragraph (h) to read as follows:

§ 1843.3 Loan subsidy rates, claims, and payments.

* * * * *

(h) Current borrower, FmHA, and subsidy rates

Loan type	Interest rate to borrower (percent)	Maximum (percent)	
		FmHA rate	Subsidy rate
OL	8½	9	½
EM for production purposes	5	9	4
EM for real estate	5	8½	3½
FO, SW, RL	5	8½	3½

AUTHORITY: 7 USC 1989; delegation of authority by the Secretary of Agriculture (7 CFR 2.23); delegation of authority by the Assistant Secretary for Rural Development (7 CFR 2.70).

Effective date: This amendment shall become effective on July 1, 1975.

Dated: June 27, 1975.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.75–17196 Filed 7–1–75;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

Loans in Areas Having Special Flood Hazards

Correction

In FR Doc. 75–15596 appearing at page 25440, in the issue for Monday, June 16, 1975 make the following changes:

1. Remove footnote number one.

2. In § 339.2, change the footnote reference in the fourth line from "1" to "2" and in the seventeenth line from "2" to "3".

3. Add footnote three to read as follows:

[3] For the purposes of this Part 339, a community participating in the national flood insurance program is a community which has complied with the requirements for participation as set forth in § 1909.22 of the regulations of the Federal Insurance Administration of the Department of Housing and Urban Development (24 CFR 1909.22) and in which flood insurance is currently being sold.

Title 16—Commercial Practices

CHAPTER 1—FEDERAL TRADE COMMISSION

[Docket No. 8941]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Atlantic Industries, Inc. et al.

Correction

In FR Doc. 75-16647 appearing at page 27018, in the issue for Thursday, June 26, 1975, on page 27020, in the middle column, paragraph 3, the 9th line beginning, "* * * make said available * * *" should be corrected to read, "* * * make said statement available * * *".

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

PART 302—RULES AND REGULATIONS UNDER FLAMMABLE FABRICS ACT

Children's Sleepwear, Sizes 0–6x and Sizes 7–14; Changes in Labeling Requirements

The Consumer Product Safety Commission, in this document, issues amendments to the rules and regulations under two standards for the flammability of children's sleepwear (FF 3–71 and FF 5–74), and invites public comment on the amendments. The Standards and the rules and regulations have been issued by the Commission under the Flammable Fabrics Act (15 U.S.C. 1191, et seq.). These amendments become effective July 2, 1975.

The regulations being amended below, Part 302 of Title 16, although appearing under "Chapter I—Federal Trade Commission" are the responsibility of the Consumer Product Safety Commission due to a transfer of statutory authority (15 U.S.C. 2079(b)). Later, Part 302 will be revised, renumbered, and transferred to Title 16, Chapter II.

The amendments provide manufacturers of children's sleepwear garments an alternative to the requirements of 16 CFR 302.19 and 16 CFR 302.21 that the garment production unit (GPU) identification of each garment subject to the standards be readily visible to the prospective purchaser when the garment is marketed at retail in packages. The amendments provide that either the GPU identification or the style identification of garments marketed at retail in packages must be readily visible to the prospective purchaser. However, if the garment manufacturer chooses to have the style identification, rather than the GPU identification visible, any recall must involve the entire style or styles of which the noncomplying GPU is a part. In addition, upon written request of the staff, the garment manufacturer must expeditiously provide the Commission with samples from the GPU for testing and with other information required under 16 CFR 302.19 and 16 CFR 302.21.

Background

On April 1, 1975 (40 FR 14584), the Commission published 16 CFR 302.21 prescribing labeling, recordkeeping, and other requirements under the Standard for the Flammability of Children's Sleepwear; Sizes 7 Through 14, as amended (FF 5–74). The standard was promulgated May 1, 1974 (39 FR 15210), amended March 21, 1975 (40 FR 12811), and corrected March 27, 1975 (40 FR 13547). Both the regulation (16 CFR 302.21) and the standard (FF 5–74) became effective May 1, 1975.

On April 14, 1975 (40 FR 16654), the Commission amended 16 CFR 302.19 to prescribe labeling, display, and recordkeeping requirements under the Standard for the Flammability of Children's Sleepwear for sizes 0 through 6x, as amended (DOC FF 3–71). The standard was amended July 21, 1972 (37 FR 14624). The amendments to 16 CFR 302.19 became effective May 14, 1975.

The regulations under both standards (16 CFR 302.21 (b) (4) and (b) (7) and 16 CFR 302.19(b) (8)) provide that each item subject to the standards must be assigned a garment production unit (GPU) identification. This GPU identification must appear on a label or stamp on each garment so as to remain on or attached to the garment and be legible and visible throughout the garment's intended period of use. In addition, where items required to be so stamped or labeled are marketed at retail in packages, and the required label or stamp is not readily visible to prospective purchasers, the packages must also be prominently, conspicuously and legibly labeled with the required information.

The purpose of these requirements is to facilitate identification of items from a given production unit by persons in the chain of distribution and by Commission personnel in the event of a recall of a production unit and to permit Commission personnel to expeditiously obtain samples from any given production unit for testing in a compliance market sampling program. To conduct a sampling program expeditiously, Commission investigators must be able to identify the garment production unit of a given item quickly, without having to open the package or look for a label that may be located inside the garment.

Some garment manufacturers have pointed out the great difficulty they have in meeting these requirements for visibility of the GPU identification because of the mechanization of their production process and because, when manufacturing two piece garments, there is no assurance that each piece will be from the same production unit.

The Commission, after further investigation, has determined that it is possible to provide an alternative to these requirements to assist manufacturers in complying with the regulations and at the same time to enable the Commission to effectively monitor compliance with the standards and help to ensure adequate recall of noncomplying items. Therefore, in the amendments issued below, the Commission has allowed garment manufacturers an alternative to having the GPU identification stamp or label readily visible to prospective purchasers at retail. The alternative does not, however, change the requirement that each garment subject to one of the Standards must bear a permanent and legible label or stamp identifying the garment's GPU.

The alternative provides that either the GPU identification or a style identification of the garment must be readily visible to the prospective purchaser, either on the garment or, if the garment is marketed at retail in a package, on the package. However, if the garment manufacturer, or other person initially introducing an item into commerce, elects to have the style identification rather than the GPU identification readily visible, then, in the event of recall of garments from a particular GPU, the entire style or styles of which the GPU is a part must be recalled. In addition, within 48 hours of a written request by Commission staff, the garment manufacturer must supply any samples available of garments from a GPU which is under investigation. The garment manufacturer must also comply with obligations under the rules and regulations to supply the Commission, upon written request, with names of customers who purchased, within a specified time period, garments from the style(s) of which the GPU is a part and to provide access to all records required under the standards and their implementing rules and regulations.

The Commission believes that this alternative provides manufacturers with some flexibility in their labeling but also allows the Commission staff to adequately monitor compliance with the standards and helps to ensure adequate recall of noncomplying items.

The amendments promulgated below shall become effective July 2, 1975.

Since 16 CFR 302.21 became effective May 1, 1975, and 16 CFR 302.19 became effective May 14, 1975, all persons subject to the regulations must now comply with the requirements. The Commission believes that the alternative provided in these amendments will assist persons subject to the standards to comply with the regulations and will not decrease the protection to consumers. Soliciting public comment at this time would delay the issuance of the amendments without providing benefit to the public. Therefore, pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d), the

Commission for good cause finds that notice and public procedure on these amendments are impractical and contrary to the public interest and the Commission for good cause finds that the amendments should be effective upon publication.

Nevertheless, the Commission wishes to invite public comment on the amendments and, therefore, a comment period of 30 days from the publication of this document in the FEDERAL REGISTER (8–1–75) is provided. Although these amendments are effective immediately upon publication, they are subject to modification on the basis of persuasive public comment that points out errors, inconsistencies, or sound legal or policy reasons for changing them and on the basis of other information that comes to the attention of the Commission, for example through its enforcement activities. The Commission seeks written data, views and other comment on the amendments and specifically requests comment on the option provided to retailers in the amendments. The Commission also invites suggestions as to the effective date of any recommended changes.

PROMULGATION

Accordingly, pursuant to provisions of the Flammable Fabrics Act (sec. 5, 67 Stat. 112–113, as amended 81 Stat. 571 (15 U.S.C. 1194)), and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(b), 86 Stat. 1231 (15 U.S.C. 2079(b))), 16 CFR Part 302 is amended as follows:

1. In § 302.19(b), subdivisions (i) and (ii) of paragraph (b)(8) are redesignated as subdivisions (iii) and (iv) respectively, and the introductory text of paragraph (b)(8) is revised and two new subdivisions (i) and (ii) are added, as follows:

§ 302.19 Children's sleepwear sizes 0–6X; labeling advertising recordkeeping, retail display, and guaranties under Standard DOC FF 3–71.

* * * * *

(b) *Labeling* * * *

(8) Every manufacturer, importer, or other person (such as a converter) initially introducing items subject to the Standard into commerce shall assign to each item a unit identification (number, letter or date, or combination, thereof) sufficient to identify and relate to the fabric production unit or garment production unit of which the item is a part. Such unit identification shall be designated in such a way as to indicate that it a production unit identification under the Standard. The letters "GPU" and "FPU" may be used to designate a garment production unit identification and fabric production unit identification respectively, at the option of the labeler.

(i) Where fabrics required to be labeled or stamped in accordance with this section are marketed at retail in packages and the required label or stamp is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the information required by this section.

(ii) Where garments required to be labeled or stamped in accordance with paragraph (b)(8) of this section are marketed at retail in packages and the required label or stamp is not readily visible to the prospective purchasers:

(A) The packages must also be prominently, conspicuously, and legibly labeled with the information required by this section; or

(B) There must be a garment style identification that is prominent, conspicuous, and legible and readily visible to the prospective purchaser, either on a label or hang tag attached to the garments or on the garment packages. A style is a garment design or grouping, preselected by the manufacturer. A style may be composed of garments that form all or part of one or more GPU's and the style may include any number of garments the manufacturer chooses. Style identification means any numbers, letters, or combination thereof that are sufficient to identify the garments of the style and may include information such as color, season or size. If this option B is selected, in any recall of noncomplying items from a particular GPU:

(*1*) the garment manufacturer must recall the entire style(s) from all customers who purchased garments of the style(s) of which the GPU is part. However, retailers may elect to return only garments from the particular GPU necessitating the recall rather than the entire style(s) being recalled; and

(2) Within 48 hours of a written request, the garment manufacturer must supply to the Commission any samples in its possession of garments from the GPU, as requested. As required of all persons subject to this section 302.19, the garment manufacturer must also, within the time requested, supply to the Commission the names of any customers who purchased during a specified period of time, garments from the GPU (or the style(s) of which the GPU is a part) and supply access to all records required under the Standard and this section.

2. Section 302.21(b)(4) is revised to read as follows and (b)(7) is amended by adding to the end of the introductory paragraph a new sentence as set forth below:

§ 302.21 Children's sleepwear, sizes 7 through 14—labeling, recordkeeping, retail display, and guaranties under FF 5–74.

* * * * *

(b) * * *

(4) (i) Where items required to be labeled or stamped in accordance with paragraphs (b)(1), (b)(2), and/or (b)(3) of this section and fabrics required to be labeled or stamped in accordance with paragraph (b)(7) of this section are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the information required by this section.

(ii) Where garments required to be labeled or stamped in accordance with paragraph (b)(7) of this section are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser:

(A) The packages must also be prominently, conspicuously, and legibly labeled with the information required by paragraph (b)(7) of this section; or

(B) There must be a garment style identification that is prominent, conspicuous, and legible and readily visible to the prospective purchaser, either on a label or hang tag attached to the garment design or on the garment packages. A style is a garment design or grouping, preselected by the manufacturer. A style may be composed of garments that form all or part of one or more GPU's and the style may include any number of garments the manufacturer chooses. Style identification means any numbers, letters, or combination thereof that are insufficient to identify the garments of the style and may include information such as color, season or size. If this option B is selected, in any recall of noncomplying items from a particular GPU.

(*1*) The garment manufacturer must recall the entire style(s) from all customers who purchased garments of the style(s) of which the GPU is part. However, retailers may elect to return only garments from the particular GPU necessitating the recall rather than the entire style(s) or portions of style(s) being recalled; and

(2) Within 48 hours of a written request, the garment manufacturer must supply to the Commission any samples in its possession of garments from the GPU, as requested. As required of all persons subject to this section, the garment manufacturer must also, within the time requested, supply to the Commission the names of any customers who purchased during a specified period of time, garments from the GPU (or the style(s) of which the GPU is a part) and supply access to all records required under the Standard and this section.

* * * * *

(7) * * * In addition to the requirements prescribed by this paragraph (b)(7), the requirements prescribed by paragraph (b)(4) of this section must be met for items marketed at retail in packages.

* * * * *

Written comments, data and other information on this document should be submitted, preferably in 5 copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 by August 1, 1975. Comments received after that date will be considered if practicable. Received comments may be viewed during working hours in the Office of the Secretary, Room 1025, 1750 K Street, NW., Washington, D.C.

Effective date: The amendments promulgated in this document shall become effective July 2, 1975.

(Sec. 5, 67 Stat. 112–118, as amended 81 Stat. 571 (15 U.S.C. 1194))

Dated: June 27, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75–17306 Filed 7–1–75;8:45 am]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER A—GENERAL

PART 1031—EMPLOYEE MEMBERSHIP AND PARTICIPATION IN VOLUNTARY STANDARDS

Promulgation of Policy

Correction

In FR Doc. 75–16103 appearing at page 26023, in the issue for Friday, June 20, 1975, on page 26026 insert the word "a" after the word "for" in the fifth line of § 1031.5(i).

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 75–143]

PART 1—GENERAL PROVISIONS

Lubbock, Texas; Port of Entry

Correction

In FR Doc. 75–16211 appearing at page 26027, in the issue for Friday, June 20, 1975 change the name of the port of entry in the heading from Laredo to Lubbock.

[T.D. 75–151]

PART 1—GENERAL PROVISIONS

Organizational Structure of the Office of Investigations

As part of the realignment of the mission and operational functions of the investigative branch of the United States Customs Service, the name of the Customs Agency Service has been changed to the Office of Investigations and the organizational structure of its domestic field offices and Customs foreign offices has been realigned. The Office of Investigations is responsible for conducting investigations of violations of Customs and related laws and of potential frauds against the revenue, and for detecting and apprehending violators of Customs and related laws. In addition, the Office conducts fact-finding investigations to develop information for the use of other branches of the Customs Service in reaching decisions within assigned spheres of responsibility, and manages and operates all Customs Service foreign offices.

As part of the organizational realignment of the Office of Investigations, a new domestic field office structure, aligned to existing Customs regions and districts, has been established. In addition, the area of jurisdiction of Customs foreign offices has been more clearly defined. It is therefore necessary to amend the Customs Regulations in order that they may reflect these changes.

Accordingly, Chapter I, Title 19 of the Code of Federal Regulations (the Customs Regulations), is amended by substituting "Office of Investigations" for "Customs Agency Service" wherever the latter appears.

In addition, § 1.5 of the Customs Regulations (19 CFR 1.5) is amended to read as follows:

§ 1.5 Office of Investigations.

(a) *Domestic field offices.* The domestic field offices of the Office of Investigations with the areas of jurisdiction aligned to existing Customs regions and districts are as follows:

Region	District	Office	Address
1. Boston, Mass			Regional Director Investigations, U.S., Customhouse, Room 1700, Boston, Mass. 02109.
		Derby Line, Vt	Resident Agent, P.O. Box 368, Derby Line, Vt. 05830.
		New. Haven, Conn	Resident Agent, 770 Chapel St., Suite 2B, New Haven, Conn. 06510.
	Portland, Maine		Special Agent in Charge, Room 17, U.S. Customhouse, Portland, Maine 04111.
		Houlton, Maine	Resident Agent, P.O. Box 432, Houlton, Maine 04730.
	Buffalo, N.Y		Special Agent in Charge, 111 SW. Huron St., Buffalo, N.Y. 14202.
	Ogdensburg, N.Y		Special Agent in Charge, 127 N. Water St., Ogdensburg, N.Y. 13669.
		Rouses Point, N.Y	Special Agent in Charge, P.O. Box 68, Rouses Point, N.Y. 12979.
II, New York, N.Y			Regional Director, Investigations, U.S. Customs Service, Room 508, 6 World Trade Center, New York, N.Y. 10048.
	Newark, N.J		Special Agent in Charge, 400 Delancey St., Newark, N.J. 07105.
	J. F. K. International Airport, New York, N.Y.		Special Agent in Charge, John F. Kennedy International Airport, 160, 19 Rockaway Blvd., Jamaica, N.Y. 11430.
III, Baltimore, Md			Regional Director, Investigations, U.S. Appraisers Stores Bldg., Room 810, 103 South Gay St., Baltimore, Md. 21202.
		Falls Church, Va	Resident Agent, 701 West Broad St., Room 301, Falls Church, Va. 22046.
	Philadelphia, Pa		Special Agent in Charge, U.S. Customs Service, 2nd and Chestnut Sts., Philadelphia, Pa. 19106.
		Pittsburgh, Pa	Resident Agent, Office of Investigations, Federal Bldg., Room 2236, 1001 Liberty Ave., Pittsburgh, Pa. 15222.
	Norfolk, Va		Special Agent in Charge, U.S. Customs Service, Room 201, U.S. Customhouse, 101 East Main St., Norfolk, Va. 23510.
IV, Miami, Fla			Regional Director, Investigations, 1330 NE. Bayshore Dr., Miami, Fla. 33132.
		West Palm Beach, Fla.	Resident Agent, 700 Clematis St., Room 253, West Palm Beach, Fla. 33402.
	Tampa, Fla		Special Agent in Charge, P.O. Box 1516, Tampa, Fla. 33601.
		Jacksonville, Fla	Resident Agent, 2701 Talleyrand Ave., Jacksonville, Fla. 32206.
	San Juan, P.R		Special Agent in Charge, U.S. Customs Service, P.O. Box S–1272, Old San Juan, P.R. 00902.
		Ponce Playa, P.R	Resident Agent, P.O. Box 127, Ponce Playa, P.R. 00731.
		Mayaguez, P.R	Resident Agent, U.S. Customhouse, P.O. Box 3226, Marina Station, Mayaguez, P.R. 00708.
	Charleston, S.C		Special Agent in Charge, P.O. Box 856, Charleston, S.C. 29402.
	Savannah, Ga		Special Agent in Charge, Drawer A, Savannah, Ga. 31408.
		Atlanta, Ga	Resident Agent, 1585 Phoenix Blvd., Suite 5, Atlanta, Ga. 30349.
	Wilmington, N.C		Special Agent in Charge, P.O. Box 898, Wilmington, N.C. 28401.
	St. Thomas, V.I		Special Agent in Charge, P.O. Box 698, Charlotte-Amalie, St. Thomas, V.I. 00801.
		St. Croix, V.I	Resident Agent, P.O. Box 1801, Christiansted, St. Croix, V.I. 00820.
V, New Orleans, La			Regional Director, Investigations, Plaza Tower Bldg., Suite 2900, 1001 Howard St., New Orleans, La. 70113.
		Nashville, Tenn	Resident Agent, 1719 West End Bldg., Room 303, Nashville, Tenn. 37203.
	Mobile, Ala		Special Agent in Charge, International Trade Center, P.O. Box 1704, Mobile, Ala. 36601.
VI, Houston, Tex			Regional Director, Investigations, Suite 1380, 500 Dallas Ave., Houston, Tex. 77002.
		Dallas, Tex	Resident Agent, 1114 Commerce St., 17th Floor, Dallas, Tex. 75202.
	Laredo, Tex		Special Agent in Charge, P.O. Box 498, Laredo, Tex. 78040.
		Brownsville, Tex	Resident Agent, 700 Paredes Ave., Suite 210, Brownsville, Tex. 78520.

Region	District	Office	Address
		Del Rio, Tex	Resident Agent, P.O. Drawer 1169, Del Rio, Tex. 78440.
		Eagle Pass, Tex	Resident Agent, P.O. Box 828, Eagle Pass, Tex. 78852.
		McAllen, Tex	Resident Agent, 2600 N. 10th St., McAllen, Tex. 78501.
		San Antonio, Tex	Resident Agent, 1802 NE. Loop 410, Suite 302, San Antonio, Tex. 78217.
	El Paso, Tex		Special Agent in Charge, P.O. Box 10719 El Paso, Tex. 79997.
		Albuquerque, N. Mex.	Resident Agent, 5301 Central Ave. NE., Suite 919, 1st National Bank Bldg., East Albuquerque, N. Mex. 87108.
		Denver, Colo	Resident Agent, 721 19th St., Room 404, P.O. Box 2771, Denver, Colo. 80201.
VII, Los Angeles, Calif.			Regional Director, Investigations, 300 South Ferry St., Room 2037, Terminal Island, San Pedro, Calif. 90731.
	Nogales, Ariz		Special Agent in Charge, P.O. Box 1385, Nogales, Ariz. 85621.
		Yuma, Arlz	Resident Agent, P.O. Box 5752, Yuma, Ariz. 85364.
		Douglas, Arlz	Resident Agent, P.O. Box 1076, 1065 F Ave., Glenn Bldg., Douglas, Ariz. 85607.
		Tucson, Airz	Resident Agent, P.O. Box 2911, Tucson, Ariz. 85702.
		Phoenix, Ariz	Resident Agent, P.O. Box 2259, Phoenix, Ariz. 85002.
	San Diego, Calif		Special Agent in Charge, P.O. Box 137, San Ysidro, Calif. 92073.
		Calexico, Calif	Resident Agent, P.O. Box 1510, Calexico, Calif. 92231.
VIII, San Francisco, Calif.			Regional Director, Investigations, 681 Market St., Room 300, San Francisco, Calif. 94105.
		Sacramento, Calif	Resident Agent, P.O. Box 4495, Sacramento, Calif. 95285.
	Honolulu, Hawaii		Special Agent in Charge, 1000 Bishop St., Suite 1210, Honolulu, Hawaii 96813.
	Great Falls, Mont		Special Agent in Charge, P.O. Box 71, Great Falls, Mont. 59403.
	Seattle, Wash		Special Agent in Charge, 909 First Ave., Seattle, Wash. 98174.
		Blaine, Wash	Resident Agent, P.O. Box 1360, Blaine, Wash. 98230.
		Spokane, Wash	Resident Agent, P.O. Box 1483, Spokano, Wash. 99210.
	Anchorage, Alaska		Special Agent in Charge, P.O. Box 199, Anchorage, Alaska 99510.
	Portland, Oreg		Special Agent in Charge, P.O. Box 2841, Portland, Oreg. 97208.
IX, Chicago, Ill			Regional Director, Investigations, 55 E. Monroe St., Suite 1423, Chicago, Ill. 60603.
	Duluth, Minn		Special Agent in Charge, Meierhoff Bldg., Room 507, 325 Lake Ave., South, Duluth, Minn. 55802.
	St. Louis, Mo		Special Agent in Charge, 120 South Central Ave., Suite 440, St. Louis, Mo. 63105.
		Independence, Mo	Resident Agent, Federal Bldg., Room 259, 301 West Lexington St., Independence, Mo. 64050.
	Detroit, Mich		Special Agent in Charge, Room 501, 243 West Congress St., Detroit, Mich. 48226.
	Milwaukee, Wis		Special Agent in Charge, 628 East Michigan St., Room 208, Milwaukee, Wis. 53202.
	Cleveland, Ohio		Special Agent in Charge, Plaza Nine, 55 Erieview Plaza, Room 210, Cleveland, Ohio 44114.
		Cincinnati, Ohio	Resident Agent, Federal Bldg., Post Office Box 1035, Fountain Square Station, Cincinnati, Ohio 45201.
		Indianapolis, Ind	Resident Agent, Combs-Gates Complex, Building 3, Weir Cook Airport, Indianapolis, Ind. 46241.
	Pembina, N. Dak		Special Agent in Charge, P.O. Box 192, Pembina, N. Dak. 58271.
	Minneapolis, Minn		Special Agent in Charge, 574 Federal Bldg., Ft. Snelling, Twin Cities, Minneapolis, Minn. 55111.

(b) *Customs foreign offices.* The Customs foreign offices are as follows:

Foreign office	Address	Area of jurisdiction
Montreal, Canada	Senior Customs Representative, American Consulate General, Montreal, Canada, 1558 McGreagor Ave., Montreal 109, P.Q., Canada.	Domestic office may conduct investigations in Canada subject to such coordination procedures as may be established by the Foreign Investigations Branch, headquarters.
Taipei, Taiwan, China, Republic of	Customs Attache, American Embassy, Box 2, APO San Francisco, Calif. 96263.	Taiwan.
London, England	Customs Attache, American Embassy, Box 40, FPO New York, N.Y. 09510.	Gibraltar; Iceland; Ireland; and the United Kingdom, including Channel Islands.
Paris, France	Customs Attache, American Embassy, D. Bldg., Room 211, APO New York, N.Y. 09794.	Belgium; France, including Corsica; Luxembourg; Monaco; the Netherlands; Portugal; and Spain.
Bonn, Germany	Customs Attache, American Embassy, Box 100, APO New York, N.Y. 09080.	Austria; Czechoslovakia; Denmark; East Germany; Finland; Liechtenstein; Norway; Poland; Sweden; Switzerland; the Union of Soviet Socialist Republics; and West Germany, including West Berlin.
Frankfurt, Germany	Senior Customs Representative, American Consulate General, APO New York N.Y. 09757.	
Hong Kong, British Crown Colony.	Senior Customs Representative, American Consulate General, Box 30, FPO San Francisco, Calif. 96659.	Australia; Ceylon; Hong Kong; Malay Archipelago, including Malaysia, the Philippines, and Indonesia; New Zealand; and all of the Asian continent east of the border of Iran with the Union of Soviet Socialist Republics, Afghanistan, and Pakistan, and nearby islands politically part of states thereon, except for South Korea and the eastern portion of the Union of Soviet Socialist Republics.
Rome, Italy	Customs Attache, American Embassy, APO New York, N.Y. 09794.	Albania; Bulgaria; Cyprus; Greece, including Crete; Hungary; Italy, including Sardinia and Sicily; Malagasy Republic; Malta; Romania; Yugoslavia; all of the African continent and nearby islands politically part of states thereon; and all of the Asian continent west of the border of Iran with the Union of Soviet Socialist Republics, Afghanistan, and Pakistan, including Asia Minor, Turkey, the Arabian Peninsula, and nearby islands politically part of states thereon.
Tokyo, Japan	Customs Attache, American Embassy, APO San Francisco, Calif. 96503.	Japan, including Ryukyu Islands.
Mexico City, Mexico	Customs Attache, American Embassy, Room 353, Apartado Postal 88-BIS, Mexico, D.F., Mexico 20521.	Central America; Mexico; and South America, Domestic offices may conduct investigations in Mexico subject to such coordination procedures as may be established by the Foreign Investigations Branch, Headquarters.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (5 U.S.C. 301, 19 U.S.C. 66, 1624))

Because these amendments concern agency organization and merely conform all references in the Customs Regulations to the current domestic field office and Customs foreign office designations of the investigative branch of the United States Customs Service, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. These amendments shall become effective July 2, 1975.

Approved: June 17, 1975.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

DAVID R. MACDONALD
Assistant Secretary of the Treasury.

[FR Doc.75-16860 Filed 7-1-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7365]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Bonds and Other Evidences of Indebtedness

Preamble. The Income Tax Regulations (26 CFR Part 1) currently require that holders of face-amount certificates issued after June 30, 1975, include the original issue discount in income ratably over the term of the certificate in accordance with section 1232(a)(3) of the Internal Revenue Code of 1954. The following amendments to the regulations make these ratable inclusion rules apply only to face-amount certificates issued after December 31, 1975.

Adoption of amendments to the regulations. Based on the foregoing, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

1. Paragraph (c)(3) of § 1.1232-1 is amended to read as follows:

§ 1.1232-1 Bonds and other evidences of indebtedness; scope of section.

* * * * *

(c) *Face-amount certificates.* * * *

(3) *Certificates issued after December 31, 1975.* In the case of a face-amount certificate issued after December 31, 1975 (other than such a certificate issued pursuant to a written commitment which was binding on such date and at all times thereafter), the provisions of § 1232(a)(3) (relating to the ratable inclusion of original issue discount in gross income) shall apply. See § 1232-3A(f). For treatment of any increase in basis under § 1232(a)(3)(A) as consideration paid for purposes of computing the investment in the contract under section 72, see § 1.72-6(c)(4).

* * * * *

2. Paragraph (f)(1) of § 1.1232-3A is amended to read as follows:

§ 1.1232-3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

* * * * *

(f) *Application of section 1232(a)(3) to face-amount certificates—(1) In general.* Under paragraph (c)(3) of § 1.1232-1, the provisions of section 1232(a)(3) and this section apply in the case of a face-amount certificate issued after December 31, 1975 (other than such a certificate issued pursuant to a written commitment which was binding on such date and at all times thereafter).

* * * * *

Because this Treasury decision only postpones the date on which § 1232(a)(3) of the Internal Revenue Code of 1954 applies to face-amount certificates, it is found unnecessary to issue the Treasury decision with notice and public procedures thereon under section 553(b) of title 5 of the United States Code, or subject to the effective date limitation of subsection (d) of such section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: June 30, 1975.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.75-17335 Filed 6-30-75;10:46 am]

Title 32—Defense Department

CHAPTER V—DEPARTMENT OF THE ARMY

SUBCHAPTER J—REAL PROPERTY

[ER 405-1-663]

PART 641—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Miscellaneous Amendments

On April 15, 1975, a document was published in the FEDERAL REGISTER (40 FR 16850) proposing to amend Corps of Engineers regulations governing administration of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894, 42 USC 4601). The proposed amendments incorporated certain changes reflected in General Services Administration guidelines for agency implementation of the Act and also incorporated a change in procedures relating to the replacement housing payment in farm land condemnation cases.

A. No comments were received from interested members of the public. However, based upon intra-agency comments and further review within this agency, the following changes are made including certain language changes for clarification:

1. The caption of § 641.83 is changed to read: "Farms—Eligibility."

2. The caption of § 641.83(a) is revised to read: "Entire Taking."

3. The following sentence is inserted between the first and second sentences of § 641.83(a): "In computing gross receipts or net earnings, consideration should be given to the value of farm produce grown and used by the farm operator." The word "only" is deleted from the original second sentence.

4. The second sentence of § 641.109(a) is changed to read: "The District Engineer may make a provisional replace-

ment housing payment to the displaced homeowner based on the Government's deposit with the court for the dwelling, provided the homeowner enters into an agreement with the Government that:"

5. Section 641.109(1) is reworded to read: "Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed as being the difference between the acquisition price determined by the court and the lesser of actual price paid for or the average amount determined by the District Engineer as necessary to acquire a comparable decent, safe, and sanitary replacement dwelling; and"

6. Section 641.109(2) is reworded to read: "If the amount awarded in the condemnation proceedings as the fair market value of the dwelling acquired plus the amount of the recomputed replacement housing payment exceeds the lesser of the price paid for, or the District Engineer's determined cost of a comparable dwelling he will refund to the Government an amount equal to the amount of the excess * * *."

7. Section 641.109(c) is reworded to read: "The above adjustment shall not be required with respect to dwellings situated on farms in which the primary value lies in the land. In such cases, any portion of the award in excess of the amount deposited with the court should be allocated entirely to the land exclusive of the dwelling and homesite."

Accordingly 32 CFR Part 641 is revised as set forth below.

Effective date. This regulation shall become effective on July 1, 1975.

For The Chief Of Engineers.

Dated: June 24, 1975.

ROBERT V. PRANGLEY,
Acting Executive.

Subpart A of Part 641 of Subchapter J of Chapter V of Title 32 of the Code of Federal Regulations is amended as follows:

Section 641.33 is revised to read:

§ 641.33 Dwelling.

"Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single-family building; a one-family unit in a multifamily building; a unit of a condominium or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost or is not a decent, safe, and sanitary dwelling.

Subpart D of Part 641 of Subchapter J of Chapter V of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 641.82 is revised to read:

§ 641.82 Businesses—Eligibility.

(a) A person displaced from his business, as defined in subsection 101(7)(A), (B), and (C), is eligible under subsection 202(c) to receive a fixed payment in lieu of moving and related expenses. Care must be exercised in each instance, however, to assure that such payments are made only in connection with a bona fide business.

(b) A payment in lieu of actual reasonable moving expenses may be made under section 202(c) to the displaced owner of a business only if the District Engineer determines that during the two taxable years prior to displacement, or during such other period as he may determine to be more equitable, the business:

(1) Had average annual gross receipts of at least $2,000 in value; or

(2) Had average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner(s), including income from all sources, such as welfare.

(c) Those businesses, described in subsection 101(7)(D) are not eligible under subsection 202(c) for a payment in lieu of moving and related expenses.

(d) Where a person is displaced from his place of business, no payment shall be made under subsection 202(c) until after the District Engineer determines:

(1) That the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and

(2) That the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the District Engineer only after consideration of all pertinent circumstances, including but not limited to the following factors:

(i) Type of business conducted by the displaced concern;

(ii) Nature of the clientele of the displaced concern; and

(iii) Relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person who operates the business.

2. Section 641.83 is revised to read:

§ 641.83 Farms—Eligibility.

(a) *Entire taking.* A payment in lieu of actual reasonable moving expenses may be made to the displaced owner of a farm operation according to the criteria established for displaced owners of businesses (§ 641.82(b)). In computing gross receipts or net earnings, consideration should be given to the value of farm produce grown and used by the farm operator. Such a payment may be made to the displaced operator of a farm operation if the District Engineer determines that the farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation.

(b) *Partial taking.* In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

Subpart E of Part 641 of Subchapter J of Chapter V of Title 32 of the Code of Federal Regulations is amended as follows:

1. The first paragraph of § 641.104 is revised to read:

§ 641.104 Differential payment for replacement housing.

The amount established as the differential payment for the replacement housing sets the upper limit of such payment. The District Engineer may determine the amount, if any, which when added to the acquisition cost of the dwelling acquired is necessary to purchase a comparable replacement dwelling either by establishing a schedule or by using a comparative method. The displaced person is bound by the method selected for use by the District Engineer.

* * * * *

2. Section 641.105 is revised to read:

§ 641.105 Increased interest payments.

The District Engineer shall determine the amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. The following shall be considered:

(a) The payment shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(b) The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. All bona fide mortgages on the dwelling acquired by the Corps of Engineers will be used to compute the increased interest cost portion of the replacement housing payment.

(d) "The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the amount of the old mortgage, whichever is the lesser.

(1) Seller's points are not to be included in the interest computation.

(2) The actual interest rate of the new mortgage will be used in the computation.

(3) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(e) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount of the unpaid debt on the acquired dwelling for its remaining term.

(f) See format for computation of interest payment below:

REQUIRED INFORMATION

1. Outstanding balance of mortgage on acquired dwelling---------- $——
2. Outstanding balance of mortgage on replacement dwelling------ $——
3. Lesser of Line 1 or Line 2--------- $——
4. Number of months remaining until last payment is due for mortgage on acquired dwelling------ ——
5. Number of months remaining until last payment is due for mortgage on replacement dwelling--- ——
6. Lesser of Line 4 or Line 5--------- ——
7. Annual interest rate of mortgage on acquired dwelling (percent)- ——
8. Annual interest rate of mortage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located) (percent) ---------- ——
9. Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks (percent)---------- ——
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense ---------- $——

DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of $——— in ——— (Line 3) (Line 6) months at an annual interest rate of ——— percent---------- $——
(Line 7)

B. Monthly payment required to amortize a loan of $——— in ——— (Line 3) (Line 6) months at an annual interest rate of ——— percent---------- ——
(Line 8)

C. Monthly payment required to amortize a loan of $——— in ——— (Line 3) (Line 6) months at an annual interest rate of ——— percent---------- ——
(Line 9)

CALCULATION OF INTEREST PAYMENT

Step 1. Subtract A from B:

Monthly payment based on rate for replacement dwelling (B)--------- $——
Monthly payment based on rate for acquired dwelling (A)---------- $——
Result (difference)---------- $——

Step 2. Divide result (difference) of Step 1 by C (carry to 6 decimal places):

Result (difference) from Step 1------ $——
Monthly payment based on savings rate (C)---------- $——
Result (quotient)---------- $——

Step 3. Multiply outstanding balance of mortgage on acquired dwelling by result (quotient) of Step 2:

Outstanding Balance (from Line 8)- $——
Result (quotient) of Step 2---------- $——
Result (product)---------- $——

Step 4. Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling:

Result (product) of Step 3, first mortgage ---------- $——
Result (product) of Step 3, second mortgage[1] ---------- $——
Sum of difference, as applicable[1]----- $——
Add debt service costs on loan on replacement dwelling (Line 10)------ $——
Amount of interest payment-------- $——

[1] If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to such mortgage through Step 3. A consolidated Step 4 is then completed.

3. Section 641.109 is revised to read:

§ 641.109 Advance replacement housing payment in condemnation cases.

No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he is rightfully due. The following procedure shall be used in cases involving condemnation except as indicated in (c) below:

(a) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The District Engineer may make a provisional replacement housing payment to the displaced homeowner based on the Government's deposit with the court for the dwelling, provided the homeowner enters into an agreement with the Government that:

(1) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed as being the difference between the acquisition price determined by the court and the lesser of actual price paid for or the average amount determined by the District Engineer as necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(2) If the amount awarded in the condemnation proceedings as the fair market value of the dwelling acquired plus the amount of the recomputed replacement housing payment exceeds the lesser of the price paid for, or the District Engineer's determined cost of a comparable dwelling, he will refund to the Government, an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(b) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

(c) The above adjustment shall not be required with respect to dwellings situated on farms in which the primary value lies in the land. In such cases, any portion of the award in excess of the amount deposited with the court should be allocated entirely to the land exclusive of the dwelling and homesite.

Subpart F of Part 641 of Subchapter J of Chapter V of Title 32 of the Code of Federal Regulations is amended as follows:

In § 641.132 the introductory text of (a), (a) (5), and (b) are revised to read:

§ 641.132 Computation and method of payment.

(a) *Rental supplement housing payment.* The District Engineer may determine the amount necessary to rent a comparable replacement dwelling either by establishing a schedule or by using a comparative method; provided, however, that in computing the rental replacement housing payment under either method, the actual or economic rent of the acquired dwelling shall be subtracted from the lesser of the amount of rent actually paid for the replacement dwelling; or the amount determined necessary to rent a comparable replacement dwelling.

* * * * *

(5) *Method of payment.* The amount of the rental payments under section 204 (1) shall be determined and paid in a lump sum, except that it shall be paid in installments if the displaced person so requests.

(b) *Purchases—Replacement housing payment.* If the displaced person elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, as follows:

(1) The amount of the down payment shall be the lesser of:

(i) The amount that would be required as a down payment for financing a conventional loan on a comparable dwelling; or

(ii) The amount required as a down payment for financing a conventional loan on the replacement dwelling actually purchased.

The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan service fees, if such fees are normal to real estate transactions in the area, on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(2) Incidental expenses of closing the transaction are those as described in § 641.106.

(3) The maximum payment shall not exceed $4,000 except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the down payment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

(Pub. L. 91-646, 2 January 1971 (84 Stat. 1894; 42 USC 4601))

[FR Doc.75-17011 Filed 7-1-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 3-75-6-R]

PART 127—SECURITY ZONES

Establishment of Security Zone, Chester, Pa.

This amendment to the Coast Guard's Security Zone Regulations, establishes the barge "COEN 60" located at Aardvark Salvage Co., Chester, Pa. as a security zone. This security zone is established to protect documents and evidence of potential interest to the Coast Guard Investigation into the explosion of the M/T ELIAS.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication, because good cause exists and public procedures on this amendment are impracticable because of insufficient advance notice.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.321.

§ 127.321 Chester, Pa.

The area within 100 yards of the barge "COEN 60", located at Aardvark Salvage Co. in Chester, Pa., is a security zone.

(46 Stat. 220, as amended, 6(b), 80 stat. 937; (50 U.S.C. 191, 49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR, 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46 (b))

Effective date: This amendment becomes effective on 5 June 1975.

Dated: June 5, 1975.

E. BIZZOZERO,
Commander, United States Coast Guard, Captain of the Port, Philadelphia.

[FR Doc.75-17209 Filed 7-1-75;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5510; AA-2518]

ALASKA

Revocation of Executive Order No. 2909 of July 12, 1918

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Executive Order No. 2909 of July 12, 1918, partially revoked by Executive Order No. 4051 of July 18, 1924, is hereby revoked in its entirety. The lands affected are described as follows:

U.S. Survey 1429, excluding Tract D, containing 2.989 acres.

2. Title to a portion of the lands described in paragraph 1 has passed from the United States by quitclaim deed (AA-6175), issued under the Alaska Communications Disposal Act of November 14, 1967 (81 Stat. 441–444). Upon approval of this order the remaining area, described below, becomes subject to the terms and conditions of Public Land Order No. 5418 of March 25, 1974.

A parcel of land lying within the Craig Townsite, Prince of Wales Island, First Judicial Division, State of Alaska:

Beginning at Corner No. 6 of U.S. Survey 1429, thence N. 06°15′ E., a distance of 125 feet to Corner No. 7; thence S. 83°45′ E., a distance of 105 feet to Corner No. 8; thence S. 06°15′ W., a distance of 305 feet; thence N. 83°45′ W., a distance of 105 feet; thence N. 06°15′ E., a distance of 180 feet; to the point of beginning.

Containing 0.73 acre, more or less.

JACK O. HORTON,
Assistant Secretary of the Interior.

June 25, 1975.

[FR Doc.75-17224 Filed 7-1-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

Re-regulation of Radio and Television Broadcasting; Correction

In the matter of re-regulation of radio and television broadcasting.

In Order, FCC 75-665, released June 13, 1975, and published June 16, 1975, at 40 FR 25457, the instructions for amending the rules are corrected in the following particulars:

Instruction 4: Instead of paragraph (d), it is new paragraph (e) which is added to § 73.69.

Instruction 8: It is the introductory text only of paragraph (d) to § 73.265 which is amended.

Instruction 14: It is the introductory texts only of paragraphs (d) and (e) to § 73.565 which are amended instead of the complete paragraphs, as implied.

Released: June 25, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-17194 Filed 7-1-75;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-102; Amdt. Nos. 172-23, 173-78, 173-78A, 174-19, 177-29]

FLAMMABLE, COMBUSTIBLE, AND PYROPHORIC LIQUIDS, DEFINITIONS

CFR CORRECTION

Title 49 CFR, Parts 100–199, revised as of October 1, 1974 carried the text of certain amendments to the sections listed below without notice of the future effective dates, thereby implying an October 1, 1974 effective date.

The effective date of amendments to:

§ 172.4(a).
§ 172.5(a).
§ 173.115 (a) and (c).
§ 173.118 heading, (a)(3), (b), (c), and (d).
§ 173.119 (b) and (l).
§ 173.401(a)(2).
§ 174.541(a) (2) and (3),
§ 174.584(a).
§ 177.823(a)(1).

published at 39 FR 2768, January 24, 1974 was originally established as January 1, 1975.

By document published at 39 FR 37488, October 22, 1974, the effective date of these amendments was delayed to July 1, 1975.

A further postponement of the effective date to January 1, 1976 (with additional amendments) was published at 40 FR 22263, May 22, 1975 and clarified at 40 FR 25024, June 12, 1975.

The revision of 49 CFR Parts 100–199 scheduled for October 1, 1975 will contain the corrected effective dates.

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. 5 to S.O. 1139]

PART 1033—CAR SERVICE

The Atchison, Topeka and Santa Fe Railway Company Authorized To Operate Over Tracks of Union Pacific Railroad Company

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of June, 1975.

Upon further consideration of Service Order No. 1139 (38 FR 14944, 27354; 39 FR 1046, 24373, and 44010), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1139 be, and it is hereby amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1139 Service Order No. 1139.

(a) *The Atchison, Topeka, and Santa Fe Railway Company authorized to operate over tracks of Union Pacific Railroad Company.*

* * * * *

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the

general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17268 Filed 7-1-75;8:45 am]

[Amdt. 1 to S. O. 1204]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Company Authorized To Operate Over Tracks of Chicago and North Western Transportation Company

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of June, 1975.

Upon further consideration of Service Order No. 1204 (39 FR 44010), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1204 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1204 Service Order No. 1204.

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago and North Western Transportation Company.*

* * * * *

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17270 Filed 7-1-75;8:45 am]

[Amdt. 8 to S.O. 1129]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Company Authorized To Operate Over Tracks of Burlington Northern Inc.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23rd day of June, 1975.

Upon further consideration of Service Order No. 1129 (38 FR 8062, 9668, 18026, 33399; 39 FR 8161, 19218, 43633, and 40 FR 8823, and good cause appearing therefore:

It is ordered, That:

Service Order No. 1129 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1129 Service Order No. 1129.

(a) *Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Burlington Northern, Inc.*

* * * * *

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1 (10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[FR Doc.75-17269 Filed 7-1-75;8:45 am]

[Amdt. No. 5 to Revised S.O. No. 1138]

PART 1033—CAR SERVICE

The Colorado and Southern Railway Co. and The Colorado & Wyoming Railway Co.

JUNE 27, 1975.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of June, 1975.

Upon further consideration of Revised Service Order No. 1138 (38 FR 14943, 33482; 39 FR 12352, 35174 and 40 FR 14766), and good cause appearing therefor:

It is ordered, That:

* * * * *

Revised Service Order No. 1138 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1138 Service Order No. 1138.

(a) *The Colorado and Southern Railway Company authorized to operate over tracks of the Colorado & Wyoming Railway Company. The Colorado & Wyoming Railway Company authorized to operate over jointly owned tracks of the Atchison, Topeka and Santa Fe Railway Company and the Colorado and Southern Railway Company.* * * *

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17267 Filed 7-1-75;8:45 am]

[Amdt. 5 To S.O. 1123]

PART 1033—CAR SERVICE

Frank W. Pollock, Jr., d/b/a Northwestern Oklahoma Railroad Co., Authorized To Operate Over Certain Trackage Abandoned by Missouri-Kansas-Texas Railroad Company

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of June, 1975.

Upon further consideration of Service Order No. 1123 (38 FR 5174, 24902, 25183; 39 FR 8327, 32137; and 40 FR 8561), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1123 be, and it is hereby, amended by substituting the fol-

lowing paragraph (e) for paragraph (e) thereof:

§ 1033.1123 Service Order No. 1123.

(a) *Frank W. Pollock, Jr., D/B/A Northwestern Oklahoma Railroad Co., authorized to operate over certain trackage abandoned by Missouri-Kansas-Texas Railroad Company.*

* * * * *

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75–17272 Filed 7–1–75;8:45 am]

[Amdt. 1 S.O. 1212]

PART 1033—CAR SERVICE

Union Pacific Railroad Company Authorized To Operate Over Tracks of Great Plains Railway Company

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of June, 1975.

Upon further consideration of Service Order No. 1212 (40 FR 19827, and good cause appearing therefor:

It is ordered, That:

Service Order No. 1212 be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

§ 1033.1212 Service Order No. 1212.

(a) *Union Pacific Railroad Company authorized to operate over tracks of Great Plains Railway Company.*

* * * * *

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75–17271 Filed 7–1–75;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 286]

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Adequate Notice and Furnishing of Data To the Public of Proposed General Increases in Freight Rates and Passenger Fares

Purpose. The purpose of this document is to correct an omission in the amended text of 49 CFR 1102 as it appeared at 40 FR 26032.

NOTICE OF CORRECTION

On June 20, 1975, there was published in the FEDERAL REGISTER (40 FR 26032), a notice of certain revisions and amendments to Parts 1102, 1104, 1105, 1303, and 1306 of Chapter X of Title 49 of the Code of Federal Regulations as a result of Ex Parte No. 286. However, due to oversight, the revised text of Part 1102 failed to incorporate other, prior changes resulting from Ex Parte No. 290 (Sub-No. 1), *Procedures Governing Rail Carrier General Increase Proceedings (Data and Information Related to the Last Prior General Increase).* Accordingly, the corrected text of Part 1102 is set forth below.

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Sec.

AUTHORITY: The provisions of this Part 1102 issued under 49 U.S.C. 15(7), 17(3); 5 U.S.C. 533(b).

§ 1102.1 Filing of tariff schedules, petitions and verified statements.

Upon the filing of tariff schedules containing proposed increases in railroad rates or charges applicable for the account of substantially all common carriers by railroad in the United States or in any of the three primary ratemaking territories, that is; Eastern, Western; or Southern, or of a petition seeking authority to file such schedules and relief from outstanding orders of the Commission, or other relief connected therewith, the carriers on whose behalf said schedules or petitions are filed shall, concurrently therewith, file and serve as provided herein, verified statements presenting and comprising the full and entire evidential case relied on in support of the proposed increase. These statements will be considered as submitted in evidence as basis for a decision by the Commission on the merits of the issues.

Included within the verified statements required herewith will be copies of a news release and a summary of the increase proposal as hereinafter described:

(a) *News release.* A news release regarding the increase proposal will be prepared so that the public in general may be apprised of the proposal, and pursuant to this purpose will contain as a minimum essentially the following:

(1) A statement directed to the editor of a newspaper indicating that the news release has been prepared in accordance with regulations of the interstate Commerce Commission and requesting that the information being forwarded be given prominent placement in the newspaper so that as large a segment as possible of the public in general may be apprised of the increase proposal.

(2) A description in language sufficient to apprise a reader who is not an expert in transportation matters, of the nature of the proposal including the amount of increase, the proponent(s), its geographic scope, and in general terms any holddowns, flagouts, or exceptions.

(3) A statement summarizing the supporting rationale for the increase including why it is needed, what it will accomplish, and in general terms accounting for the presence of the holddowns, flagouts, and exceptions.

(4) A statement indicating that copies of the proposal and supporting evidentiary material have been forwarded to regional and district offices of the Commission and State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal; and indicating that the public may obtain copies of these documents by writing to "(*Here the name and address of the carrier or publishing agent will be inserted*)."

(b) *Summary.* A summary of the increase proposal, drafted in language directed at a reader who is not an expert in transportation matters, will be pre-

pared in sufficient detail to apprise such a reader of the nature of the increase proposal. Pursuant to this purpose, included within the contents of the summary will be the following:

(1) A general description of the essentials of the increase proposal including its proponent(s), effective date, geographic scope, the amount of the increase, and a general description of holddowns, flagouts, and exceptions.

(2) A summary of the supporting rationale for the increase including why it is needed, what it will accomplish and an explanation in general terms for the presence of the holddowns, flagouts, and exceptions.

(3) A statement indicating that copies of the proposal and the entire evidentiary case in support thereof have been forwarded to regional and district offices of the Commission and to the State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal; and

(4) A statement as follows: "The proposed tariff* contents the only legal terms of the increase binding on the parties" [*"(A)nd/or petition" if applicable]

§ 1102.2 Data and information related to the last prior general increase.

Upon the filing of a petition for authority to publish a general rate increase, the following data and information shall be provided by individual class I line-haul railroads and summarized for each district and all districts combined for the period, beginning with the first calendar quarter after the effective date of the last general increase to and including the last complete calendar quarter ending at least 31 days prior to the filing of a petition for a new general rate increase (hereinafter referred to as the study period); provided that in the event the study period so determined fails to cover a minimum of one calendar quarter, then the study period shall begin with the effective date of the last general increase and run to and including the last complete month ending at least 31 days prior to the filing of a petition for a new general rate increase; and further provided that in the event that the study period exceeds 18 months, the Commission may, at its discretion, shorten such period to the extent deemed by it to be necessary, either upon its own motion or upon petition filed by the railroads.

(a) *General data.* The following shall be submitted for line-haul traffic:

(1) Total estimated revenues for the study period if the last authorized increase had been fully applied.

(2) Total actual revenues, ton-miles, and revenue per ton-mile based on rates actually applied during the study period.

(3) Total actual revenue, ton-miles, and revenue per ton-mile for the corresponding period (calendar quarters) in the year preceding the study period.

(4) Explanation of any significant differences between items (2) and (3), such as changes in traffic levels, average length of haul, traffic mix, rate changes, and other relevant factors.

(5) Total increase in revenues obtained by application of the last authorized general increase (item (2) less item (3)).

(b) *Accessorial services data.* The following shall be submitted for those special and accessorial services such as collection on delivery and wharfage charges listed on page 13 of Tariff of Increased Rates and Charges, X–281–A:

(1) Total estimated revenues for the study period if the last authorized increase had been fully applied.

(2) Total actual revenues based on charges actually applied during the study period.

(3) Total actual revenues for the corresponding period (calendar quarters) in the year preceding the study period.

(4) Total increase in revenues obtained by application of the last authorized general increase (item (2) less item (3)).

(c). *Availability of underlying data.* All underlying data used in preparation of the material outlined above shall be made available for inspection upon reasonable request in writing, and shall be furnished by the railroads to the Commission upon request. The underlying data shall be made available also at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

§ 1102.3 Service of verified statements on the Commission.

The original and 24 copies of each such verified statement for the use of the Commission shall be sent to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement, excluding the news release, shall be sent by first-class mail to each regional and district office of the Commission where it will be open to public inspection.

§ 1102.4 Service of verified statements on the public.

(a) Concurrently with the filing of the petition and verified statements:

(1) A copy of the proposal, the evidentiary case in support thereof, and the summary shall be mailed by first-class mail to each party of record in the last prior general increase proceeding, and to regional and district offices of the Commission and State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal. Where service is made by mail, the statements shall be mailed in time to be received on the date the original is filed with the Commission. A copy of each such statement, including the summary referred to above, shall be furnished to any interested person upon request.

(2) A copy of the news release, whose contents are described in § 1102.1 above, will be transmitted to the major news wire services and the principal newspaper of general circulation in the capitol and four largest cities of all States served by the carrier and affected by the proposal. For the purpose of this requirement, the principal newspaper of general circulation is that newspaper of general circulation published in a city having the largest average daily circulation. Where service is made by mail, the news release shall be mailed in time to be received on the date the original is filed with the Commission.

(b) The fact of service as herein required shall be evidenced by a certificate of service filed with the petition.

§ 1102.5 Verification of statements.

Each verified statement shall be signed in ink by the affiant and verified (notarized) in the manner provided by Rule 50 and Form No. 6 of the Commission's General Rules of Practice. The post office address of the affiant or his counsel shall be shown. The provisions in this part supersede the provisions of the general rules of practice, Part 1100 of this chapter, to the extent inconsistent therewith.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–17273 Filed 7–1–75;8:45 am]

proposed rules

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

DISPOSITION OF QUALIFIED LOW-INCOME HOUSING

Proposed Rule Making

Correction

In FR Doc. 16164 appearing at page 26040, in the issue for Friday, June 20, 1975, under § 1.1250–3(h) (2) (i) on page 26041 remove the paragraph designation "(h) (1) (i)" from the first and third lines.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRD HUNTING

Proposed Amendment to Species Identification Requirement

The U.S. Fish and Wildlife Service proposes to change regulations concerning a requirement relative to the identification of migratory game birds transported within the United States. § 20.11, promulgated under the Migratory Bird Treaty Act, 16 U.S.C. 703–711, defines "migratory game birds" to mean those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which open seasons are prescribed and which belong to one of five listed scientific families, including the family *Columbidae* (wild doves and pigeons). § 20.43 of Title 50, Code of Federal Regulations, provides: "No person shall transport within the United States any migratory game birds except doves, unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a commercial preservation facility". The purpose of this requirement is to ensure that each such bird is sufficiently intact in whole or in distinctive part to permit ready identification as to its species (and subspecies, if any). Such ready identifiability is indispensable to the effective enforcement of the Migratory Bird Treaty Act. Doves are exempted from the requirement of § 20.43 and may be transported within the United States without regard to it.

The purpose of the proposed change is to add the band-tailed pigeon (*Columba fasciata*) as a species exempted from the requirement of § 20.43. This will eliminate a restriction which has little enforcement value because fully dressed rock doves (*Columba livia*), an unprotected species similar in appearance to the band-tailed pigeon, may be possessed in unlimited numbers. The present restriction is an inconvenience to hunters and hinders sanitary preservation of carcasses intended for human consumption. The proposed change will allow band-tails to be transported within the United States without either the head or one fully feathered wing remaining attached to each such bird without contravening § 20.43 of Title 50, Code of Federal Regulations.

The proposed change applies only to the transportation of band-tailed pigeons within the United States and in no way mitigates or otherwise affects the species identification requirements of §§ 20.52 and 20.63 of Title 50, CFR, relative to the exportation and importation, respectively, of migratory game birds including, among others, band-tailed pigeons.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/IE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received no later than July 17, 1975 will be considered. The usual 30-day period for submittal of written comments has been reduced to 15 days because of the desirability of (1) removing the species identification requirement with respect to band-tailed pigeons in time for the forthcoming hunting season (to begin September 1, 1975), and (2) including notice of such removal of this restriction in the annual regulatory announcement concerning season lengths, bag and possession limits, etc., for doves and pigeons. It is also considered that the nature of the proposed change as one which relaxes an already-existing regulatory requirement is such as to permit a shortened comment period. Comments received will be available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

This notice of proposed rulemaking is issued under the authority contained in the Migratory Bird Treaty Act (16 U.S.C. 704).

Dated June 27, 1975.

KEITH M. SCHREINER,
Acting Director,
Fish and Wildlife Service.

Accordingly, it is proposed to amend subchapter B, Chapter I of Title 50, Code of Federal Regulations, by revising § 20.43 to read as follows:

§ 20.43 Species identification requirement.

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (*Columba fasciata*), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor of a commercial preservation facility.

[FR Doc.75–17290 Filed 7–1–75;8:45 am]

[50 CFR Part 20]

MIGRATORY BIRDS

Proposed Rule Making

Notice is hereby given that pursuant to the authority contained in the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711), it is proposed to amend Part 20 of Title 50, Code of Federal Regulations. This is the third in a series of proposed rule making notices relating to the establishment of hunting regulations in the continental United States for the 1975–76 season, and deals specifically with frameworks for certain migratory game birds and with proposed regulations for Canada geese in the Horicon Zone of Wisconsin.

The first notice, dealing specifically with amendments affecting Puerto Rico and the Virgin Islands, was published in the FEDERAL REGISTER on April 18, 1975 (40 FR 17263) with a comment period ending May 18, 1975. The second notice, dealing specifically with amendments affecting continental United States and Hawaii, was published in the FEDERAL REGISTER on May 8, 1975 (40 FR 20090) with a comment period ending June 7, 1975, later extended to June 25, 1975, through publication in the FEDERAL REGISTER on June 9, 1975 (40 FR 24527). Additional proposals will be published in the FEDERAL REGISTER for other migratory game bird hunting regulations as information becomes available. Although public comment will be solicited, it is anticipated that the comment period will necessarily be abbreviated because of the late date at which necessary data will become available.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. In this connection, the draft environmental statement (EIS) titled *The Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds* has been available since February 11, 1975 (40 FR 6381, February 11, 1975) with a comment

period ending April 14, 1975. Public hearings for comments on the draft EIS were also held during March in accordance with the published schedule (40 FR 6516, February 12, 1975). The final environmental statement (FES 75–54) was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241).

The Annual Regulations Conference for Migratory Shore and Upland Game Birds convened on June 24, 1975, in Washington, D.C., in accordance with the notice published in the FEDERAL REGISTER on June 6, 1975 (40 FR 24368). This meeting was open to the public and statements by interested persons were invited.

The final promulgation of migratory bird hunting regulations for the continental United States for the 1975–76 season will take into consideration the comments and testimony received. Comments, testimony, and any additional information received may lead to the adoption of final regulations that differ from the proposals contained herein.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the nonexistence before mid-June of specific, reliable data on this year's status of shore and upland game bird populations. However, it is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Director (FWS/MBM), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. All relevant comments received no later than July 17, 1975, will be considered.

PROPOSED REGULATIONS FRAMEWORKS FOR 1975–76 HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS.

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; and for waterfowl, coots, snipe, and cranes in Alaska. For the guidance of State game departments, these frameworks are summarized below.

NOTE: Any State desiring its season on gallinules or snipe to open in September must make its selection no later than July 28, 1975. Those States which desire their gallinule or snipe season to open after September may make their selection at the time they select their regular waterfowl season.

MOURNING DOVES

Between September 1, 1975, and January 15, 1976, except as noted, States may select seasons as follows:

Eastern Management Unit. (All States east of the Mississppi River and Louisiana).

1. Shooting hours are 12 noon until sunset daily.

2. The daily bag limit is 12 and the possession limit is 24.

3. An open season of not more than 70 half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States as follows:

A. Two zones per State having the following division lines:

Alabama—U.S. Highway 84.

Georgia—from west to east, U.S. Highway 80 from Columbus to Macon; State Highway 49 from Macon to Milledgeville; State Highway 22 from Milledgeville to Sparta; State Highway 16 from Sparta to Warrenton; and U.S. Highway 278 from Warrenton to Augusta.

Louisiana—U.S. Highway 190.

Mississippi—From west to east, State Highway 12 to Kosciusko, there joining State Highway 14 and continuing to the Alabama line.

B. Within each zone, these States may select an open season of not more than 70 half-days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the southern zones of these States may commence no earlier than September 20, 1975.

Central Management Unit. (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming)

1. Shooting hours are ½ hour before sunrise until sunset daily in all States except that in Texas during the white-winged dove season, the shooting hours are 12 noon until sunset in those counties where white-winged dove hunting is allowed.

2. The daily bag limit is 10 and the possession limit is 20 in all States.

3. An open season in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

Texas may select an open season for each of two previously established geographical areas subject to the following conditions:

1. The open season may be split into not more than 2 periods.

2. The Northern Area may have an open season of not more than 60 days between September 1, 1975, and January 20, 1976. Shooting hours are ½ hour before sunrise until sunset daily, except during the white-winged dove season when the shooting hours are noon until sunset in those counties in which white-winged doves are hunted.

3. The Southern Area may have an open season of not more than 60 days between September 20, 1975, and January 20, 1976. Shooting hours are ½ hour before sunrise until sunset daily. *Provided*, That in the Counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Webb, and Maverick, the mourning dove season will be open concurrently with the white-winged dove season, with shooting hours to coincide with those for white-winged doves, and the remainder of the season (60 days less the number of days of the white-winged dove season) must be during September 20, 1975–January 20, 1976.

In New Mexico, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

Western Management Unit: (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington).

1. Shooting hours are ½ hour before sunrise until sunset daily.

2. The daily bag limit is 10 and the possession limit is 20.

3. An open season of not more than 50 full days which may run consecutively or be split into not more than three periods.

In Clark and Nye Counties, Nevada, and in Imperial, Riverside, and San Bernardino Counties, California, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

WHITE-WINGED DOVES

Between September 1, 1975, and December 31, 1975, Arizona may select an open season for the entire State of not more than 25 consecutive days. Such a season shall run concurrently with the first period of the mourning dove season. The daily bag and possession limit is 10. Shooting hours are ½ hour before sunrise until sunset daily.

California may select an open season only for the Counties of Imperial, Riverside, and San Bernardino. The daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of these species. Shooting hours are from ½ hour before sunrise until sunset daily. Dates, limits, and hours conform with those for mourning doves.

Nevada may select an open season only for the Counties of Clark and Nye. The daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of these species. Shooting hours are ½ hour before sunrise until sunset daily. Dates, limits, and hours conform with those for mourning doves.

New Mexico may select an open season for the entire State. The daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of these species. Shooting hours are ½ hour before sunrise until sunset daily. Dates, limits, and hours conform with those for mourning doves.

Texas may select an open season of not more than 7 half-days only for the following Counties: Brewster, Cameron,

Culberson, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata. The daily bag is 10 and the possession limit is 20. Shooting hours are 12 noon until sunset daily. Season may be split. Dates: Between September 1 and September 14, 1975.

BAND-TAILED PIGEONS

Between September 1, 1975, and January 15, 1976, Washington and Oregon may select open seasons of not more than 30 consecutive days; California may select open seasons of not more than 30 consecutive days for each of the following two areas:

1. In the Counties of: Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

2. The remainder of the State.

In all three States, the daily bag and possession limit is not more than 8 band-tailed pigeons and the shooting hours are ½ hour before sunrise until sunset daily.

The open season for band-tailed pigeons in Arizona, Colorado, New Mexico, and Utah is subject to the following conditions: between September 1 and November 30, 1975, each State may select an open season of 30 consecutive days with a daily bag limit of 5 and possession limit of 10 band-tailed pigeons, *Provided,* That each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State game department, and such permit will be valid in that State only; and *Provided further,* That this season shall be open only in the areas delineated by the respective States in their hunting regulations. New Mexico may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and thence south along Interstate Highway 25 to the Texas State line. Between September 1, 1975, and November 30, 1975, in the northern zone, and October 1, 1975, and November 30, 1975, in the southern zone, New Mexico may select open seasons of 20 consecutive days. The shooting hours are ½ hour before sunrise until sunset daily.

RAILS

(King, Clapper, Sora, and Virginia)

Between September 1, 1975, and January 20, 1976, the States may select seasons on king, clapper, sora, and Virginia rails as follows: Shooting hours in all States for all species are ½ hour before sunrise until sunset daily.

The season length for all species of rails may not exceed 70 days.

In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, the daily bag limit is 10 and the possession limit is 20 king and clapper rails, singly or in the aggregate of these two species.

In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, the daily bag limit is 15 and possession limit is 30 king and clapper rails, singly or in the aggregate of these two species.

The season will remain closed on king and clapper rails in all other States.

In addition to the limits for king and clapper rails prescribed above, a daily bag and possession limit of 25, singly or in the aggregate of sora and Virginia rails is prescribed in States in the Atlantic, Mississppi, and Central Flyways.

No season is prescribed for rails in the Pacific Flyway.

WOODCOCK

Between September 1, 1975, and February 28, 1976, States in the Atlantic, Mississippi, and Central Flyways may select a season of not more than 65 days with a daily bag limit of 5 and a possession limit of 10; *Provided,* That in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end by January 31. Shooting hours are ½ hour before sunrise until sunset daily. Any State may split its woodcock season without penalty.

COMMON SNIPE (WILSON'S)

Between September 1, 1975, and February 28, 1976, States in the Atlantic (except Florida), Mississippi, and Central Flyways may select a season of not more than 65 days with a daily bag limit of 8 and a possession limit of 16; Florida may select a snipe season within this framework of not more than 107 days; *Provided,* That in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. Shooting hours are ½ hour before sunrise until sunset daily. Any State may split its snipe season without penalty.

All States and portions of States in the Pacific Flyway must select their snipe season to run concurrently with their regular duck season. In these Pacific Flyway States it will be unlawful to take snipe when it is unlawful to take ducks.

States in the three eastern Flyways (except Florida) may defer selecting their snipe season until the time they select their waterfowl season. In that event, the bag and possession limits will be 8 and 16, as above, but shooting hours must be the same as for waterfowl.

GALLINULES

Between September 1, 1975, and January 20, 1976, States may select a season of not more than 70 days with a daily bag limit of 15 and a possession limit of 30. Shooting hours are ½ hour before sunrise until sunset daily. States may split their gallinule seasons without penalty.

States may select their seasons on gallinules at the time they select their waterfowl seasons. If the selection is deferred, bag limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. *Except,* That a gallinule season selected by any State in the Pacific Flyway must conform to its waterfowl season, and the daily bag and possession limits will be 25 coots and gallinules singly or in the aggregate of these species.

SCOTER, EIDER, AND OLDSQUAW DUCKS (ATLANTIC FLYWAY)

A maximum open season of 107 days for taking scoter, eider, and oldsquaw ducks is prescribed during the period between September 1, 1975, and January 20, 1976, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of the State of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in the States of New Jersey, North Carolina, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in the States of Delaware, Virginia, and Maryland: *Provided,* That any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species. Shooting hours are ½ hour before sunrise until sunset daily.

SEPTEMBER TEAL SEASON

Between September 1 and September 30, 1975, an open season on all species of teal may be selected by the States of Alabama, Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect nontarget species by July 28, 1975.

MIGRATORY GAME BIRD SEASONS IN ALASKA

Between September 1, 1975, and January 26, 1976, Alaska may select seasons on waterfowl, coots, snipe, and cranes, subject to the following limitations:

1. Shooting hours on all species are ½ hour before sunrise until sunset daily.

2. *Season lengths:*

(a) In the Pribilof, Kodiak, and Aleutian Islands, except Unimak Island, an open season of 107 consecutive days for ducks, geese, brant, and coots.

(b) Except: the season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

(c) In the remainder of Alaska including Unimak Island, an open season of 107 consecutive days for ducks, geese, brant, and coots.

(d) An open season of 65 days for snipe.

(e) An open season of 45 consecutive days for lesser sandhill (little brown) cranes.

3. *Bag and Possession Limits:*

(a) *Ducks.* A basic daily bag limit of 6 and a possession limit of 18 ducks. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

(b) *Geese.* A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 6 and a possession limit of 12 Emperor geese.

(c) *Brant*—A daily bag limit of 4 and a possession limit of 8.

(d) *Coots*—A daily bag and possession limit of 15.

(e) *Snipe*—A daily bag limit of 8 and a possession limit of 16.

(f) *Cranes*—A daily bag limit of 2 and a possession limit of 4.

In order to inform the public about the rules and the September 12, 1975, deadline for submitting applications for Horicon Zone Canada Goose Hunting Permits and to allow a 15-day public comment period, ending July 17, 1975, the Fish and Wildlife Service proposes at this time to amend § 20.105 of Subpart K, Title 50 CFR, as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

* * * * *

(d) *Canada geese in the Horicon Zone.*

(1) In Wisconsin during the 1975-76 waterfowl season, the kill of Canada geese will be limited to 28,000 birds; 16,000 of which may be taken in the area designated as the Horicon Zone.

(2) The Horicon Zone includes portions of Columbia, Dodge, Fond du Lac, Green Lake, Washington, and Winnebago Counties. It is bounded on the east by U.S. Highway 45 from Oshkosh to Fond du Lac, and then State Highway 175 to Addison; on the south by State Highway 33 from Addison to Beaver Dam, and then U.S. Highway 151 to Columbus; on the west by State Highway 73 from Columbus to its intersection with State Highway 23, east of Princeton; and on the north by State Highway 23 from the intersection with State Highway 73 to Ripon, then State Highway 44 to Oshkosh.

(3) Seasons and limits for Canada geese:

Daily bag limit: 1

Possession limit: 1

Season dates: Oct. 9–Oct. 26, inclusive.

(4) Each person hunting Canada geese in the Horicon Zone must have been issued in his name and carry on his person a valid Horicon Zone Canada goose tag hunting permit with correspondingly numbered report card and metal Canada goose tag. To be valid, the permit must remain attached to the report card until a Canada goose is reduced to possession.

(5) Immediately after a Canada goose is killed in the Horicon Zone and reduced to possession, the tag must be affixed and securely locked through the nostrils of the Canada goose. The goose may not be carried by hand or transported in any manner without the tag being attached. The tag must remain on the goose until it reaches the abode of the permit holder.

(6) Each person hunting Canada geese in the Horicon Zone must report on tag use or nonuse, using the report card provided, within 12 hours after the close of the Canada goose season in the Horicon Zone.

(7) Permit application procedure:

(i) Applications for Horicon Zone Canada Goose Hunting Permits must be submitted by mail and postmarked no later than September 12, 1975. Only holders of a current valid hunting license may apply. Each application must contain the applicant's first name, middle initial (if any) and last name. It shall be unlawful for any person to apply for and receive more than one permit per year or to submit an application containing false information. Applications from persons in the military service on duty outside the State during the regular application period will be accepted if they are accompanied by a notarized statement attesting to such duty outside the State.

(ii) Application forms will be available from county clerks, State hunting and fishing license depots, and from Wisconsin Department of Natural Resources offices in Spooner, Rhinelander, Eau Claire, Green Bay, Madison and Milwaukee.

(iii) If the number of applicants exceeds the number of permits and tags authorized, successful applicants will be randomly selected. If two or more persons wish to hunt together in the Horicon Zone, each must fill out an application form and submit it together with the applications from other members of the group in one envelope marked "Group Application." Group applications will be considered in the selection as one application.

This notice of proposed rule making is issued under the authority of the Migratory Bird Treaty Act (16 U.S.C. 704).

Dated: June 27, 1975.

KEITH M. SCHREINER,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc.75–17289 Filed 7–1–75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1902]

[Docket No. SP–6]

PROCEDURES FOR DETERMINATIONS UNDER SECTION 18(e) OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Notice of Proposed Rulemaking

Notice is hereby given that under the authority of sections 8(g)(2) and 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2) and 667) (hereinafter referred to as the Act), it is proposed to implement Subpart D of 29 CFR Part 1902 as set out below. Subpart D has been reserved.

The purpose of Subpart D of Part 1902 of this chapter is to set out the policies and procedures by which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary), under a delegation of authority from the Secretary of Labor (Secretary's Order 12–73, 36 FR 8754), will make a determination under section 18(e) of the Act as to whether or not a State whose plan has been approved under section 18(c) of the Act, is applying the criteria of that section in actual operations in such a manner as to warrant the termination of discretionary Federal enforcement authority and standards in issues covered under the plan.

Section 18(e) of the Act provides that the Assistant Secretary may, on the basis of his evaluation of actual operations under an approved State plan, make a determination that the criteria set forth in section 18(c) of the Act are being applied.

Section 18(c) of the Act and Part 1902 of this chapter set forth the policies, criteria and procedures by which the Assistant Secretary may approve a State plan for State enforcement of State occupational safety and health standards. Among the requirements for approval of a State's plan is that the State's standards and its enforcement program are or will be at least as effective in providing safe and healthful employment and places of employment as those under the Federal program. Subpart B of 29 CFR Part 1902 sets forth the specific criteria and indices of effectiveness under which a plan may be approved by the Assistant Secretary. In many cases a State's proposal for an occupational safety and health plan has been approved although it does not fully meet the criteria set forth in Subpart B of 29 CFR

Part 1952. Such plans have been approved because they include satisfactory assurances that the State will take the necessary steps to bring the plan into conformity with the criteria of Subpart B of Part 1902 of this chapter within three years immediately following the commencement of plan operations. Such plans are known as developmental plans (see 29 CFR 1902.1(c)(1), 1902.2(b) and 1953.10(b)). When a plan is approved as a developmental plan, the plan is to include the specific actions the State proposes to take to come into conformity with the criteria and indices set forth in Subpart B of this Part and the time schedule for their accomplishment, which period is not to exceed three years. At the end of this developmental period, the State plan is expected to meet the criteria and indices set forth in Subpart B of this Part.

The conditions and decisions of approval of a State plan by the Assistant Secretary are set forth in 29 CFR Part 1952. Each approval of a State plan is based on a determination by the Assistant Secretary that the plan meets the requirements of section 18(c) of the Act and the criteria and indices of effectiveness outlined in Part 1902 of this chapter. In the case of developmental plans, a schedule setting forth in specific steps to be accomplished within the three year developmental period is incorporated as part of the approval decision and is included in the appropriate subpart of Part 1952.

Following this approval, changes in a State's program must be submitted to the Assistant Secretary for his approval. Changes in a plan may result from the completion of a developmental step, changes required following an evaluation by the Assistant Secretary, Federal program changes which the State may be required to adopt, and changes initiated by a State (see 29 CFR Part 1953). When these changes are approved by the Assistant Secretary, a notice is published in the FEDERAL REGISTER and the appropriate subpart of Part 1952 is amended to reflect the change in a State's plan, particularly in the case of the completion of a developmental step (see Hawaii plan supplement approval, 40 FR 6335, February 11, 1975).

When a State plan is approved under section 18(c) of the Act and Subpart B of this Part, the actual operations of the plan are subject to a continuing evaluation by the Assistant Secretary under section 18(f) of the Act and 29 CFR Part 1954. In accordance with section 18(e) of the Act, Federal authority for the enforcement of standards in issues covered by the plan continues for at least three years and, in the case of a developmental plan, for at least one year after the completion of all developmental steps. The evaluation system is designed to assure that developmental steps are completed, that the plan, in operation, is at least as effective as the Federal program in providing safe and healthful employment and places of employment with respect to standards and enforcement and for continuing review of the implementation of the plan and any modifications thereto to assure compliance with the provisions of the plan and any changes which may be required.

At the end of the developmental period and after one year of intensive evaluations of actual operations under the plan following the end of such period, a State may be eligible for a determination under section 18(e) of the Act that the required criteria of section 18(c) of the Act and the implementing regulations of Subpart B of this part are actually being applied under the plan. This 18(e) determination will not be made, however, until a period of not less than three years following commencement of plan operations after approval of a State's plan by the Assistant Secretary and, in the case of a developmental plan, until the State had completed all required developmental steps specified in the plan and the Assistant Secretary has had at least one year in which to evaluate the program on the basis of actual operations following the completion of all developmental steps (see 29 CFR 1902.1(c)(1)).

It is proposed that an 18(e) determination process will begin with a certification by the Assistant Secretary that a State has completed all of the required developmental steps specified in the plan as approved. Upon the completion of all such developmental steps, the Assistant Regional Director for Occupational Safety and Health for the region in which the State is located (hereinafter referred to as the Assistant Regional Director) will certify that all required developmental steps in the plan as approved have been met. The certification will be sent to the Assistant Secretary and, if he concurs in the Assistant Regional Director's certification, the Assistant Secretary will publish a notice of the certification in the FEDERAL REGISTER along with an amendment to the appropriate subpart of Part 1952 of this chapter acknowledging the certification.

The certification that a State has completed all developmental steps will initiate Phase II of the State Program Performance Monitoring System outlined in 29 CFR 1954.2(a). Evaluations under this phase will be aimed at a comprehensive evaluation of the total State program on the basis of actual operations following full implementation and will include drawing information collected from evaluations conducted following initial approval up to the time of the certification (Phase I). Evaluations under Phase II are specifically designed to aid the Assistant Secretary in his decision whether to make an affirmative determination under section 18(e) and will be conducted for at least one year following the certification that a State has completed the developmental steps specified in the plan.

The Assistant Secretary's determination whether to grant an affirmative 18(e) determination will be based on his continuing evaluation of the plan in actual operation in applying the objective criteria and indices for initial plan approval in Part 1902 of this chapter. The Assistant Secretary's consideration will not be limited to his own evaluation of plan operations but may include such other factors as comments and information received from the public and the results of any hearing which may have been held concerning the proposed 18(e) determination. Accordingly, these regulations set forth the criteria by which the Assistant Secretary will make his determination.

After the Assistant Secretary has completed his evaluation for at least one year following the certification that a State has completed all of the required developmental steps specified in the plan as approved under section 18(c), that State may be eligible for an affirmative 18(e) determination. Either the Assistant Secretary on his own motion may initiate an 18(e) determination proceeding or a State may request such a determination after at least one year of evaluations of the operations under the plan following the certification. Upon the initiation of an 18(e) determination proceeding, the Assistant Secretary will publish a notice in the FEDERAL REGISTER indicating that a plan, or any modifications thereof, are in issue before him for an affirmative 18(e) determination. Since an 18(e) determination is a major step in the approval of State plans, it is deemed appropriate that there be an opportunity for public comment and input during the determination process. Accordingly, the regulations will provide an opportunity for public comment and/or informal hearings, which hearings will be legislative in type.

Upon making an affirmative determination that the criteria of section 18(c) of the Act and Part 1902 of this chapter are being applied in a manner which renders the State program at least as effective as the Federal program in providing safe and healthful employment, the standards promulgated under section 6 of the Act and the enforcement provisions of sections 5(a)(2), 8 (except for the purpose of continuing evaluations under section 18(f)), 9, 10, 13 and 17 of the Act shall not apply with respect to those occupational safety and health issues covered under the plan which have been given an affirmative section 18(e) determination. The Assistant Secretary will retain jurisdiction under the citation and contest provisions of sections 9 and 10 of the Act where such proceedings have been commenced prior to the time of his determination. The Assistant Secretary will also retain his jurisdiction under the anti-discrimination provisions of section 11(c) of the Act. In effect, upon making an affirmative determination, the Assistant Secretary gives his final approval to a State plan and withdraws his enforcement authority from the State except for the inspection provisions of section 8 of the Act which he retains for the purpose of his continuing evaluation of State plan operations. In addition, the Assistant Secretary retains his enforcement authority with respect to those issues over which a State has not assumed jurisdiction (see 29 CFR 1902.1(c)(4)) and,

where applicable, those separable portions of a plan which have not been given an affirmative 18(e) determination.

If the Assistant Secretary determines, after notice and an opportunity for a hearing, that a State has not met the criteria for an affirmative 18(e) determination, he shall retain his enforcement authority over the issues covered by the plan, or portion thereof, which were not approved for an affirmative 18(e) determination. His decision may also result in the commencement of proceedings for withdrawal of plan approval under Part 1955 of this chapter (see 29 CFR 1955.3 (a)(3), 40 FR 23467, May 30, 1975). There may be situations where a State has not met the criteria for an affirmative 18(e) determination, but operations under the plan are not of such a nature as to constitute a substantial failure to comply with the provisions of the plan warranting the initiation of withdrawal proceedings. In such cases it is proposed that the Assistant Secretary will publish a notice in the FEDERAL REGISTER of his reasons for not making an affirmative 18(e) determination. The notice may also set forth a reasonable time in which the State must meet the criteria for an affirmative 18(e) determination and set forth such conditions as the Assistant Secretary may deem proper for the continuation of approval of the State's plan or portion thereof.

Even though a State has been granted an affirmative 18(e) determination, it will be required to maintain a program which will remain at least as effective as the Federal program. In addition, the State will be required to submit a program change supplement to its program whenever there is a change in the State's program, whenever the results of evaluations conducted under section 18(f) show that some portion of a State plan has an adverse impact on the operations of the State plan or whenever the Assistant Secretary determines that any alteration in the Federal program could have an adverse impact on the "at least as effective as" status of the State program, as provided in Subpart C of 29 CFR Part 1953 (39 FR 32905, September 12, 1974).

A failure to adhere to these commitments may result in the revocation of the Assistant Secretary's affirmative 18(e) determination and the resumption of discretionary Federal enforcement authority and/or in proceedings for the withdrawal of approval of the plan or any portion thereof pursuant to Part 1955 of this chapter.

The authority to make an affirmative 18(e) determination necessarily carries with it the authority to reconsider and, if necessary, to revoke or rescind that determination. It has long been recognized that an administrative official has an inherent right to reopen and reconsider any matter at any time. See e.g. *United States* v. *Pierce Auto Freight Lines Inc.*, 327 U.S. 515, 534–535 (1946); *Interstate Commerce Commission* v. *Jersey City*, 322 U.S. 503, 517–518 (1944). This authority is particularly appropriate where, as here, the decision is conditioned in part, on the expectation that a State is to continue maintaining its program at a certain level of effectiveness following the affirmative 18(e) determination. Orders [and decisions of an agency] ordinarily have relation to the future and not to the past; and with the passage of time their provisions may be rendered inappropriate by changing conditions." *American Chain and Cable Co.* v. *Federal Trade Commission*, 142 F2d 909, 911 (C.A. 4, 1944). See also, Davis, Administrative Law Treatise § 18.09. The decision of the Assistant Secretary is necessarily of future effect. Events or changes in the future operations of a State plan may have some effect on the Assistant Secretary's commitment to ensure so far as possible safe and healthful working conditions for every working person and entail a responsibility to respond to situations where a serious hiatus could exist in worker occupational safety and health protection. Accordingly, it is proposed that the Assistant Secretary may reconsider, and if necessary, rescind or revoke all or part of an affirmative 18(e) determination and reinstate Federal enforcement authority for a limited time where necessary if he finds, after an opportunity for public comment and an informal hearing, that a State plan in actual operations does not maintain its commitment to provide a program providing worker safety and health protection meeting the requirements of section 18 (c) of the Act any time after it has been granted an affirmative 18(e) determination. This authority is generally designed to be used in those cases where operations under a State plan are found to be substantially less effective then under the Federal program. An example might be where State funding for enforcement of occupational safety and health standards has been reduced thereby resulting in a significant reduction in personnel available to implement the plan.

It is emphasized, however, that this procedure does not result in the withdrawal of approval of the plan or any portion thereof. The plan remains in effect except for the reinstatement of discretionary Federal enforcement authority. Withdrawal procedures are provided for in 29 CFR Part 1955. However, the Assistant Secretary may use this procedure to reinstate Federal enforcement authority in conjunction with or during the course of, plan withdrawal proceedings, in order to assure that there is no serious gap in assuring safe and healthful working conditions so far as possible for every worker.

Interested persons are given until August 1, 1975 to submit written comments, suggestions or objections regarding the proposed Subpart D of Part 1902 to the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Docket No. SP–6, Room N–3112, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Comments received will be available for public inspection and copying during normal business hours at the above address. The proposed rules may be revised prior to final publication to reflect suggestions made by the comments.

In consideration of the foregoing it is proposed to add a new Subpart D to 29 CFR Part 1902 to read as follows:

Subpart D—Procedures for Determinations Under Section 18(e) of the Act

General

Completion of Developmental Steps—Certification

Basis for 18(e) Determinations

Procedures for 18(e) Determinations

Procedure for Reconsideration and Revocation of an Affirmative 18(e) Determination

AUTHORITY: Secs. 8(g)(2), 18, 84 Stat 1598, 1608 (29 U.S.C. 657(g)(2), 667).

GENERAL

§ 1902.30 Purpose and scope.

This subpart contains procedures and criteria under which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 12–71, 36 FR 8754) will make his determination on whether to grant final approval to State plans in accordance with the provisions of section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act).

§ 1902.31 Definitions.

As used in this subpart, unless the context clearly requires otherwise:

"Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

"Affirmative 18(e) determination" means an affirmative determination under section 18(e) of the Act that the State plan, or any modification thereof, is in actual operations meeting the criteria and indices of section 18(c) of the Act and Subpart B of this part so as to

warrant the withdrawal of the application of discretionary Federal enforcement authority and standards from issues covered by the plan, or any modification thereof.

"Assistant Regional Director" means the Assistant Regional Director for Occupational Safety and Health for the region in which a State is located.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health.

"Commencement of a case" under section 18(e) of the Act means, for the purpose of retaining Federal jurisdiction following an affirmative 18(e) determination, the issuance of a citation, and in the case of an imminent danger, the commencement of enforcement proceedings under section 13 of the Act.

"Commencement of plan operations" means the beginning of operations under a plan following the approval of the plan by the Assistant Secretary and is generally not later than the effective date of the initial funding grant provided under section 23(g) of the Act.

"Developmental step" includes, but is not limited to, those items listed in the published developmental schedule, or any revisions thereto, for each plan contained in 29 CFR Part 1952. A developmental step also includes those items in the plan which require action by the State as approved under section 18(c) of the Act, as well as those items in the approval decision which were subject to evaluations (see e.g., approval of Michigan plan), and changes deemed necessary as a result thereof to make the State program at least as effective as the Federal program within the 3 year developmental period. (See 29 CFR 1953.10(a)).

"Initial approval" means approval of a State plan, or any modification thereof, under section 18(c) of the Act and Subpart C of this part.

"Person" means any individual, partnership, association, corporation, business trust, legal representative, organized group of individuals, or an agency, authority or instrumentality of the United States or of a State;

"Separable portion of a plan" for purposes of an 18(e) determination generally means an issue as defined in 29 CFR 1902.2(c), i.e., "an industrial, occupational or hazard grouping which is at least as comprehensive as a corresponding grouping contained in (i) one or more sections in Subparts B or R of Part 1910 of this chapter, or (ii) one or more of the remaining subparts of Part 1910:" *Provided,* however, that whenever the Assistant Secretary has determined that other industrial, occupational or hazard groupings are administratively practicable, such groupings shall be considered as separable portions of a plan.

§ 1902.32 General policies.

(a) Sections 18 (e) and (f) of the Act provide for the continuing evaluation and monitoring of State plans approved under section 18(c) of the Act. The Assistant Secretary's decision whether to grant an affirmative 18(e) determination will be based, in part, on the results of these evaluations. Section 18(e) provides that a period of not less than 3 years shall have passed before the Assistant Secretary may make a determination that the State program in actual operations is applying the criteria of section 18(c) of the Act. In the case of a developmental plan, the Assistant Secretary must have at least one year in which to evaluate the plan's actual operations following the completion of all developmental steps specified in the plan. Thus, to be considered for an 18(e) determination, at least three years shall have passed following commencement of operations after the initial approval of a State's occupational safety and health plan by the Assistant Secretary. In the case of a developmental plan, at least one year shall have passed following the completion of all developmental steps, but, in any event, at least three years must have passed following initial approval of the plan.

(b) In making an 18(e) determination, the Assistant Secretary will determine if actual operations under a State's plan, or a separable portion of the plan, show that the State is applying the criteria of section 18(c) of the Act and the indices of effectiveness of Subpart B of this part and in a manner which renders operations under the plan "at least as effective as" operations under the Federal program in providing safe and healthful employment and places of employment within the State. In making this determination, the Assistant Secretary may consider such other factors which he may deem appropriate for an informed decision.

(c) If the Assistant Secretary makes an affirmative 18(e) determination, the Federal enforcement provisions of sections 5(a)(2), 8 (except for the purposes of continuing evaluations under section 18(f) of the Act) 9, 10, 13 and 17 and standards promulgated under section 6 of the Act shall not apply with respect to those occupational safety and health issues covered under the plan which have been given an affirmative 18(e) determination. However, the Assistant Secretary may retain jurisdiction over proceedings commenced under sections 9 and 10 of the Act before the date of his determination. In addition, the Assistant Secretary shall retain his jurisdiction under the anti-discrimination provisions of section 11(c) of the Act.

(d) If the Assistant Secretary determines that a State plan, or any portion thereof, has not met the criteria for an 18(e) determination, he shall retain his authority under the enforcement provisions of sections 5(a)(2), 8, 9, 10, 13, and 17 and his standards authority under section 6 of the Act in the issues found ineligible for an 18(e) determination. In addition, his decision may result in the commencement of proceedings for withdrawal of approval of the plan, or any portion thereof, under 29 CFR Part 1955.

(e) Once a State's plan, or any modification thereof, has been given an affirmative 18(e) determination, it will be required to maintain a program which will meet the requirements of section 18(c) and will continue to be "at least as effective as" the Federal program operations in the issues covered by the determination. As the Federal program changes and becomes more effective, the State is required to maintain its program at a level which would provide a program for workplace safety and health which would be "at least as effective as" the Federal program (i.e., as the Federal program changes and becomes more effective, the States are required to "track" the Federal program). A failure to comply with this requirement may result in the revocation of the affirmative 18(e) determination and the resumption of Federal enforcement and standards authority and/or in the commencement of proceedings for the withdrawal of approval of the plan, or any portion thereof, pursuant to 29 CFR Part 1955.

Completion of Developmental Steps—Certification

§ 1902.33 Developmental period.

Upon the commencement of plan operations after the initial approval of a State's plan by the Assistant Secretary, a State has three years in which to complete all of the developmental steps specified in the plan as approved. Section 1953.11 of this chapter sets forth the procedures for the submission and consideration of developmental changes by the Assistant Secretary. Generally, whenever a State completes a developmental step, it must submit the resulting change as a supplement to its plan with relevant documentation to the Assistant Secretary for his approval. The Assistant Secretary's approval of such changes is then published in the Federal Register and the pertinent subparts of Part 1952 of this chapter are amended to reflect the completion of a developmental step.

§ 1902.34 Certification of completion of developmental steps.

(a) Upon the completion of all of the developmental steps in a State's plan, which is to be accomplished not later than three years following commencement of plan operations after approval of the plan under section 18(c) by the Assistant Secretary, the Assistant Regional Director shall certify, as provided in paragraph (b) of this section, that all developmental steps in the plan have been met and that the State's program is to be evaluated on the basis that it is eligible for an 18(e) determination after at least one year of evaluations of the plan.

(b) Upon determining that a State has completed all of its developmental steps, the Assistant Regional Director shall prepare a certification which shall promptly be forwarded to the Assistant Secretary. The certification shall include, but shall not be limited to, the following:

(1) A list of all developmental steps or revisions thereof, plan amendments or changes which result in the completion of the steps or revisions thereof, and the date the Assistant Secretary's or the Assistant Regional Director's approval of each change was published in the Federal

(2) Any other changes in the State program which were approved by the Assistant Secretary and their dates of publication in the Federal Register;

(3) Documentation that the actual operations of the State's merit system has been found acceptable by the Occupational Safety and Health Administration and the U.S. Civil Service Commission; and

(4) A description of the issues which are covered by the State plan. Where applicable, the certification shall include a description of those separable portions of the plan which have been certified for 18(e) evaluation purposes as well as those portions of the plan which were not certified by the Assistant Regional Director.

(c) After a review of the certification and the State's plan, if the Assistant Secretary finds that the State has completed all of the developmental steps specified in the plan, he shall publish the certification in the Federal Register and amend the appropriate subpart of Part 1952 of this chapter to reflect this finding.

§ 1902.35 Effect of certification.

Publication of the certification acknowledging the completion of all of the developmental steps in a State's plan will automatically initiate the evaluation of a State's plan for the purposes of an 18(e) determination. Evaluations for the purposes of an 18(e) determination will continue for at least one year after the publication of the certification in the Federal Register. Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 11(c), 13, and 17 of the Act and Federal standards authority under section 6 of the Act will not be relinquished. Evaluations conducted for 18(e) determination purposes will be based on the criteria outlined in §§ 1902.37 and 1902.38.

Basis for 18(e) Determinations

§ 1902.36 General provisions.

(a) In making his evaluations of the actual operations of a State's plan for the purposes of an 18(e) determination, the Assistant Secretary shall consider all relevant data which will aid him in making an effective determination. His evaluations shall consider whether the requirements of section 18(c) of the Act and the criteria for State plans outlined in Subpart B of this part are being applied in actual operations in a manner which warrants the termination of concurrent Federal enforcement authority and standards in issues covered under the plan.

(b) The Assistant Secretary's evaluation for an 18(e) determination will include, but shall not be limited to, considering whether the criteria in § 1902.37 are being applied by the State in such a manner as to render its program in operation at least as effective as operations under the Federal program. The Assistant Secretary's evaluation may include such other matters as information developed from comments received from the public and the results of any hearings which may have been held under § 1902.40 concerning the proposed 18(e) determination.

§ 1902.37 Standards for determination.

(a) *General.* An 18(e) evaluation conducted under this section shall determine whether actual operations under a State's plan, or any modification thereof, meet the criteria of section 18(c) of the Act and the implementing regulations in the manner set forth in this section. These provisions shall not preclude the Assistant Secretary from considering such other evidence as he may deem necessary for an informed consideration of an 18(e) determination.

(b) *Indices of effectiveness.* The Assistant Secretary shall determine if the State has applied and implemented all of the specific criteria and indices of §§ 1902.3 and 1902.4 of this Part.

(c) *Standards considered.* In determining whether the criteria and indices in paragraph (b) of this section are being applied, the Assistant Secretary shall, among other things, consider the following standards:

(1) The State has adhered to the procedures which it has adopted and which have been approved under the State plan, State plan changes or any other system authorized by the Assistant Secretary.

(2) The State has timely adopted all required Federal standards or has timely developed and promulgated standards which are at least as effective as the comparable Federal standards whenever standards promulgated under section 6 of the Act become effective.

(3) Where the State has developed and promulgated its own occupational safety and health standards, such standards have withstood administrative and judicial challenge and have been found to be at least as effective in actual application as comparable Federal standards. This requirement acknowledges that such standards may have been approved by the Assistant Regional Director, but focuses on the actual effectiveness of the application of the standard.

(4) In granting applications for permanent variances from a standard, the State has assured that the employer provides conditions of employment which are as safe and healthful as those which would prevail if he complied with the standard.

(5) In granting temporary variances from a standard, the State has ensured that the recipient of the variance has come into compliance with the standard as quickly as possible.

(6) The State inspection program is being implemented in a manner which allows a sufficient allocation of resources to be directed toward target health and hazardous industries covered under the plan while providing adequate attention to all other workplaces covered under the plan, or any modification thereof.

(7) The State has provided adequate explanations of the purposes and procedures of inspections to employers and employees.

(8) Inspections by State inspectors are conducted in a competent manner. State inspectors follow approved enforcement procedures and provide documentation (by citation or otherwise) so as to provide sufficient evidence to support any citations which may be contested.

(9) The State exercises the authority to compel right of entry and inspection wherever such entry or inspection is refused.

(10) The State issues its citations, including abatement requirements, and penalties in a timely manner. This includes the proposal of penalties for first instance citations and the use of gravity classifications comparable to operations under the Federal program.

(11) Wherever appropriate, the designated agency, or its designee, has sought review of adverse administrative determinations, including judicial review.

(12) The decisions rendered by a State review commission and the State courts do not detract significantly from the State's authority to enforce standards.

(13) The State ensures the abatement of hazards for which a citation has been issued, including issuing citations for failure to abate where appropriate.

(14) The designated agency and any other agencies to whom it has delegated authority and responsibility, have a sufficient number of adequately trained and qualified personnel for the enforcement of standards.

(15) Analysis of the annual OSH Survey by the Bureau of Labor Statistics and any other Federal measurements of program impact, which surveys will take into consideration various local factors, indicate that trends in worker safety and health injury and illness rates under the State program compare favorably to those under the Federal program.

(16) To the extent permitted by State law, the State provides a program for public employees which is as effective as its protection for private employees.

Procedures for 18(e) Determination

§ 1902.38 Evaluation of plan following certification.

(a) Following the publication in the Federal Register under § 1902.34 of the certification acknowledging the completion of all developmental steps specified in the plan, or any portion thereof, the Assistant Secretary will evaluate and monitor the actual operations under the State plan for at least 1 year before determining whether the State is eligible for an 18(e) determination. The evaluation will assess the actual operation of the State's fully implemented program based on the criteria in § 1902.37 and such other factors as the Assistant Secretary deems necessary and appropriate.

(b) Every 6 months the Assistant Regional Director shall prepare a detailed written report of his evaluation of the actual operations under the State plan or any portion thereof in narrative form. The Assistant Regional Director's evaluation report will be transmitted to the Assistant Secretary who will then transmit the report to the State. The State shall have an opportunity to respond to each evaluation report.

§ 1902.39 Completion of evaluation.

(a) After evaluating the actual operations of the State plan, or any portion

thereof, for at least 1 year following publication of the certification in the FEDERAL REGISTER under § 1902.34, the Assistant Secretary shall notify the State whenever he determines that the State will be eligible for an 18(e) determination. In addition, a State may request an 18(e) determination following the evaluation period noted above. In no case shall this determination of eligibility be later than 2 years following the commencement of evaluations under § 1902.38(a).

(b) After it has been determined that a State will be eligible for an 18(e) determination, the Assistant Regional Director shall prepare a final report of his evaluation of the actual operations under a State's plan or portion thereof which may be subject to the 18(e) determination. The Assistant Regional Director's report shall be transmitted to the Assistant Secretary. The Assistant Secretary shall transmit such report to the State and the State shall have an opportunity to respond to the report.

(c) Whenever it has been determined that a State's plan, or portion thereof, is eligible for an 18(e) determination, the Assistant Secretary shall publish a notice in the FEDERAL REGISTER. The notice shall meet the requirements of the remaining paragraphs of this section. No later than 5 days following the publication of the notice in the FEDERAL REGISTER, the affected State agency shall publish, or cause to be published, within the State, reasonable notice containing the same information.

(d) The notice shall indicate that the plan, or any portion thereof, is the subject for an 18(e) determination. Where a portion of a plan is the subject for an 18(e) determination, the notice shall specify such portion as well as those portions which are not subject to an 18(e) determination.

(e) The notice shall afford interested persons an opportunity to submit in writing, data, views, and arguments on the proposed 18(e) determination.

(f) The notice shall also state that any person or the affected State may request an informal hearing concerning the proposed 18(e) determination whenever particularized written objections thereto are filed within 30 days following publication of the notice in the FEDERAL REGISTER.

(g) If the Assistant Secretary finds that substantial objections are filed which substantially relate to the proposed 18(e) determination, the Assistant Secretary shall, and in any other case may, publish a notice of informal hearing in the FEDERAL REGISTER not later than 30 days after the last day for filing written views or comments. The notice shall include:

(1) A statement of the time, place and nature of the proceeding;

(2) A specification of the issues which have been raised and on which an informal hearing has been requested;

(3) The requirement for the filing of an intention to appear at the hearing, together with a statement of the position to be taken with regard to the issues specified, and of the evidence to be addressed in support of the position;

(4) The designation of a presiding officer to conduct the hearing; and

(5) Any other appropriate provisions with regard to the proceeding.

§ 1902.40 Informal hearing.

(a) Any hearing conducted under this section shall be legislative in type. However, fairness may require an opportunity for cross-examination on pertinent issues. The presiding officer is empowered to permit cross-examination under such circumstances. The essential intent is to provide an opportunity for participation and comment by interested persons which can be carried out expeditiously and without rigid procedures which might unduly impede or protract the 18(e) determination process.

(b) Although any hearing shall be informal and legislative in type, this section is intended to provide more than the bare essentials of informal proceedings under 5 U.S.C. 553. The additional requirements are the following:

(1) The persiding officer shall be a hearing examiner appointed under 5 U.S.C. 3105.

(2) The presiding officer shall provide an opportunity for cross-examination on pertinent issues.

(3) The hearing shall be reported verbatim, and a transcript shall be available to any interested person on such terms as the presiding officer may provide.

(c) The officer presiding at a hearing shall have all the power necessary or appropriate to conduct a fair and full hearing, including the powers:

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentation to the issues specified in the notice of hearing, or, where appropriate, to matters pertinent to the proposed determination;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) To take official notice of material facts not appearing in the evidence in the record, as long as the parties are entitled to an opportunity to show evidence to the contrary;

(6) In his discretion, to keep the record open for a reasonable and specific time to receive written recommendations with supporting reasons and additional data, views, and arguments from any person who has participated in the oral proceeding.

(d) Upon the completion of the oral presentations, the transcripts thereof, together with written submissions on the proceedings, exhibits filed during the hearing, and all posthearing comments, recommendations, and supporting reasons shall be certified by the officer presiding at the hearing to the Assistant Secretary.

§ 1902.41 Decision.

(a) Within a reasonable time after the expiration of the period provided for the submission of written data, views, and arguments on the proposed determination on which no hearing is held, or within a reasonable time after the certification of the record of a hearing, the Assistant Secretary shall publish in the FEDERAL REGISTER his decision whether or not an affirmative 18(e) determination has been made for the State plan, or any portion thereof. The action of the Assistant Secretary shall be taken after consideration of all relevant matters, including his evaluations of the actual operations of the plan, relevant matters presented in written submissions and in any hearings held under this subpart.

(b) Any decision under this section shall incorporate a concise general statement of its basis and purpose and shall respond to general issues which may have been raised in written submissions or at the hearing.

(c) All decisions resulting in an affirmative 18(e) determination shall contain provisions amending the appropriate subparts of Part 1952 of this chapter.

(d) All decisions concerning the Assistant Secretary's determination under section 18(e) of the Act shall be published in the FEDERAL REGISTER.

§ 1902.42 Effect of affirmative 18(e) determination.

(a) In making an affirmative 18(e) determination, the Assistant Secretary determines that a State has applied the provisions of its plan, or any modification thereof, in accordance with the criteria of section 18(c) of the Act and that the State has applied the provisions of this Part in a manner which renders the actual operations of the State program "at least as effective as" operations under the Federal program.

(b) In the case of an affirmative 18(e) determination of a separable portion(s) of a plan, the Assistant Secretary determines that the State has applied the separable portion(s) of the plan in accordance with the criteria of section 18(c) of the Act in a manner comparable to Federal operations covering such portions and that the criteria of this Part are being applied in a manner which renders the actual operations of such separable portion(s) of the State program "at least as effective as" operations of such portions under the Federal program.

(c) Upon making an affirmative 18(e) determination, the standards promulgated under section 6 of the Act and the enforcement provisions of section 5(a)(2), 8 (except for the purpose of continuing evaluations under section 18(f) of the Act), 9, 10, 13 and 17 of the Act shall not apply with respect to those occupational safety and health issues covered under the plan for which an affirmative 18(e) determination has been granted. The Assistant Secretary shall retain his authority under the above sections for those issues covered in the plan which have not been granted an affirmative 18(e) determination.

(d) The Assistant Secretary will retain jurisdiction under the citation and con-

test provisions of sections 9 and 10 of the Act and the imminent danger provisions of section 13 where such proceedings have been commenced prior to the date of his determination.

§ 1902.43 Affirmative 18(e) decision.

(a) In publishing his affirmative 18(e) decision in the FEDERAL REGISTER, which decision shall incorporate any operational agreement entered into under § 1954.3 of this chapter, the Assistant Secretary's notice shall include, but shall not be limited to the following:

(1) Those issues under the plan over which the Assistant Secretary is withdrawing his standards and enforcement authority;

(2) A statement that the Assistant Secretary retains his authority under section 11(c) of the Act to investigate complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act;

(3) Amendments to the appropriate subpart of Part 1952 of this chapter;

(4) A statement that the Assistant Secretary is not precluded from revoking his determination and reinstating his standards and enforcement authority under § 1902.47 *et seq.*, if his continuing evaluations under section 18(f) of the Act show that the State is not maintaining a program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to its plan to the Assistant Secretary as required by Subpart C of 29 CFR Part 1953.

§ 1902.44 Requirements applicable to State plans granted affirmative 18(e) determinations.

(a) A State whose plan, or modification thereof, has been granted an affirmative 18(e) determination will be required to maintain a program within the scope of such determination which will be "at least as effective as" operations under the Federal program in providing worker safety and health protection at covered workplaces within the comparable scope of the Federal program. This requirement includes submitting all required reports to the Assistant Secretary, as well as submitting supplements to the Assistant Secretary for his approval whenever there is a change in the State's program, whenever the results of evaluations conducted under section 18(f) show that some portion of a State plan has an adverse impact on the operations of the State plan or whenever the Assistant Secretary determines that any alteration in the Federal program could have an adverse impact on the "at least as effective as" status of the State program.

(b) A failure to comply with the requirements of this section may result in the revocation of the affirmative 18(e) determination and the resumption of Federal enforcement authority, and may also result in proceedings for the withdrawal of approval of the plan or any portion thereof pursuant to Part 1955 of this chapter.

§ 1902.45 [Reserved]

§ 1902.46 Negative 18(e) determination.

(a) This section sets out the procedures which may be followed whenever the Assistant Secretary determines that a State's plan, or any portion thereof, has not met the criteria for an affirmative 18(e) determination.

(b) If the Assistant Secretary determines that a State plan, or a portion thereof, has not met the criteria of section 18(c) of the Act and that actual operations under the plan, or portion thereof, have not met the criteria for an affirmative determination set forth in § 1902.37, he shall retain his standards authority under section 6 of the Act and his enforcement authority under sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act for those issues covered under the plan or such portions of the plan which were subject to his negative determination.

(c) A decision under this section may result in the commencement of proceedings for withdrawal of approval of the plan or any portion thereof pursuant to Part 1955 of this chapter.

(d) Where the Assistant Secretary determines that operations under a State plan or any portion thereof have not met the criteria for an affirmative 18(e) determination, but are not of such a nature as to warrant the initiation of withdrawal proceedings, the Assistant Secretary may, at his discretion, afford the State a reasonable time to meet the criteria for an affirmative 18(e) determination after which time he may initiate proceedings for withdrawal of plan approval. This discretionary authority will be applied in the following manner:

(1) Upon determining that a State shall be subject to a final 18(e) determination, the Assistant Secretary shall notify the agency designated by the State to administer its program, or portion thereof, within the State of his decision that the State's program, or portion thereof, shall be subject to a final 18(e) determination. The Assistant Secretary shall give the State a reasonable time, generally not less than 1 year, in which to meet the criteria for an affirmative 18(e) determination.

(2) The Assistant Secretary shall also publish a notice in the FEDERAL REGISTER outlining his reasons for not making an affirmative 18(e) determination at the time. The notice will also set forth the reasonable time the State was granted to meet the criteria for an affirmative 18(e) determination and set forth such conditions as the Assistant Secretary deems proper for the continuation of the State's plan or such portions subject to this action.

(3) The State shall have an opportunity to respond to the Assistant Secretary's decision.

(4) Upon the expiration of the time granted to a State to meet the criteria for an affirmative 18(e) determination under paragraph (d)(2) of this section, the Assistant Secretary may initiate proceedings to determine whether a State shall be granted an affirmative 18(e) determination. The procedures outlined in this subpart shall be applicable to any proceedings initiated under this paragraph.

PROCEDURE FOR RECONSIDERATION AND REVOCATION OF AN AFFIRMATIVE 18(e) DETERMINATION

§ 1902.47 Administrative reconsideration of an affirmative 18(e) determination.

(a) The Assistant Secretary may at any time conclude to reconsider on his own initiative his decision granting an affirmative 18(e) determination.

(b) Such reconsideration shall be based on results of his continuing evaluation of a State plan after it has been granted an affirmative 18(e) determination.

§ 1902.48 The proceeding.

Whenever, as a result of his reconsideration, the Assistant Secretary proposes to revoke his affirmative 18(e) determination, he shall follow the procedures in the remaining sections of this subpart.

§ 1902.49 General notice.

(a) Whenever the Assistant Secretary proposes to revoke an affirmative 18(e) determination, he shall publish a notice in the FEDERAL REGISTER meeting the requirements of the remaining paragraphs of this section. No later than 5 days following the publication of the notice in the FEDERAL REGISTER, the affected State agency shall publish, or cause to be published, reasonable notice within the State containing the same information.

(b) The notice shall indicate the issues involved in the Assistant Secretary's proposal.

(c) The notice shall afford interested persons an opportunity to submit in writing, data, views, and arguments on the proposal within 30 days after publication of the notice in the FEDERAL REGISTER. The notice shall also provide that any interested person may request an informal hearing concerning the proposed revocation whenever particularized written objections thereto are filed within 30 days following publication of the notice in the FEDERAL REGISTER. If the Assistant Secretary finds that substantial objections have been filed, he shall afford an informal hearing on the proposed revocation under § 1902.50.

(d) The Assistant Secretary may, upon his own initiative, give notice of an informal hearing affording an opportunity for oral comments concerning the proposed revocation.

§ 1902.50 Informal hearing.

Any informal hearing shall be legislative in type. The rules of procedure for each hearing shall be those contained in § 1902.40 and will be published with the notice thereof.

§ 1902.51 Certification of the record of a hearing.

Upon completion of an informal hearing, the transcript thereof, together with

written submissions, exhibits filed during the hearing, and any post-hearing presentations shall be certified by the officer presiding at the hearing to the Assistant Secretary.

§ 1902.52 Decision.

(a) After consideration of all relevant information which has been presented, the Assistant Secretary shall issue a decision on the continuation or revocation of the affirmative 18(e) determination.

(b) The decision revoking the determination shall also reflect the Assistant Secretary's determination that concurrent Federal enforcement and standards authority will be reinstated within the State for a reasonable time until he has withdrawn his approval of the plan, or any portion thereof, pursuant to Part 1955 of this chapter or he has determined that the State has met the criteria for a further 18(e) determination pursuant to the normal procedures of this subpart.

§ 1902.53 Publication of decisions.

All decisions on the reconsideration of an affirmative 18(e) determination shall be published in the FEDERAL REGISTER.

Signed at Washington, D.C. this 26th day of June 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-17242 Filed 7-1-75;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 546]

[No. 75-567]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Amendment Relating to Mergers

SUMMARY

JUNE 25, 1975.

The following summary of the amendment proposed by this Resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulations.

I. Present Situation. Federal associations are not required to notify their members when they file a merger application.

II. Proposed Amendment. Would require merger applicants, after submitting a completed application for a merger in which one of the applicants is a Federal association, to publish a notice of the filing of such application in a general circulation newspaper in the community or communities being served by the merging association and the resulting association.

III. Reason for Proposal. To better inform the members of Federal associations of merger plans.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to § 546.2 of the rules and regulations for the Federal Savings and Loan System (12 CFR 546.2) in order to require merger applicants, after submitting a completed application for a merger in which one of the applicants is a Federal association, to publish a notice of the filing of such application in a newspaper having general circulation in the community or communities being served by the merging association and the resulting association. By a companion Resolution (Resolution No. 75-568, dated June 25, 1975), the Board proposes a similar amendment to Part 563 of the rules and regulations for insurance of accounts (12 CFR Part 563).

At present, the only relevant regulatory provision that concerns membership notice is § 546.2(d) dealing with mergers in which one of the associations is a Federal. That section provides that "the Board may, where it deems appropriate, require that the plan of merger be submitted to the voting members of either or both associations at a duly called meeting or meetings and that the plan, to become effective, be approved by them." Although § 546.2(d) speaks only of membership approval, membership notice is inherent in the approval procedure. Absent special circumstances, the Board has not required notice and membership approval under § 546.2(d).

The proposal would require the merger applicants, after being informed by the Supervisory Agent that an application for approval of a merger in which one of the associations is a Federal is complete, to publish within 10 days from the date of such advice, in a newspaper or newspapers printed in the English language and having general circulation in the community or communities being served by the merging association and the resulting association, a notice, in the form prescribed by the Board, of the filing of such application. Where a number of the members of either applicant speak a language other than English and a newspaper in that language is published in the communities being served by such applicant, then a translation of such notice would have to also appear in such paper. The notice would contain the names of the associations involved, identify the proposed home office location, state specifically whether all branch offices are being continued or list those branch offices that are being discontinued, and indicate where interested persons could file communications concerning such application. An explicit exception to the notice requirement is provided for mergers instituted for supervisory reasons.

Accordingly, the Board hereby proposes to amend § 546.2 by redesignating as paragraphs (f), (g), and (h) respectively, the present paragraphs (d), (e), and (f) thereof and adding thereto new paragraphs (d) and (e), to read as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552, by August 8, 1975, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.5 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.5).

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

Section 546.2 is amended by redesignating paragraphs (d), (e), and (f) as paragraphs (f), (g), and (h) respectively and by adding new paragraphs (d) and (e) to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(d) Upon determination by the Supervisory Agent that an application for approval of a merger is complete, the Supervisory Agent shall advise the applicants, in writing, to publish, within 10 days from the date of such advice, in a newspaper or newspapers printed in the English language and having general circulation in the community or communities being served by the merging associations and the resulting association, a notice of the filing of the application in the following form:

NOTICE OF FILING OF MERGER APPLICATION

Notice is hereby given that, pursuant to the provisions of § 546.2 of the Rules and Regulations for the Federal Savings and Loan System, the _____ Savings and Loan Association, _____, _____, and the _____
(City) (State)
Savings and Loan Association, _____,
(City)
_____ have filed an application with the
(State)
Federal Home Loan Bank Board for permission to merge, _____ Savings and Loan Association to be the resulting association, operating under the (same name) (name of _____ Savings and Loan Association). (The previous sentence should be appropriately modified if an acquisition of assets and assumption of liabilities is involved.) The resulting association intends to have its home office at _____,
(Street Address)
_____, _____ (and to maintain all (or
(City) (State)
the) present branch offices (or office) or to discontinue a branch office (or offices) at the following location (or locations); _____, _____, _____.) The
(Street Address) (City) (State)
application has been delivered to the Office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of _____, _____, _____, _____.
(City) (Street Address) (City) (State)

Any person may file communications concerning said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Four copies of any communication should be filed. The application, information submitted therewith, and all communications are available for inspection by any person at the aforesaid office of the Supervisory

Agent in accordance with the rules and regulations of the Federal Home Loan Bank Board.

---------- Savings and Loan Association ----------.

If a significant number of the members of either applicant speak a language other than English and a newspaper in that language is published in the communities served by such applicant, an appropriate translation of such notice shall also be published in such newspaper. The requirements of this paragraph (d) do not apply to any merger detremined by the Board to be instituted for supervisory reasons.

(e) Promptly after publication of said notice or notices, the applicants shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] A. CATHERINE POORE,
Assistant Secretary.

[FR Doc.75-17240 Filed 7-1-75;8:45 am]

[12 CFR Part 563]

[No. 75-568]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Amendment Relating to Mergers

SUMMARY

JUNE 25, 1975.

The following summary of the amendment proposed by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulation.

I. Present Situation. State-chartered insured institutions do not have to notify their members when they file a merger application with the Board unless required by State law.

II. Proposed Amendment. Would require a State-chartered insured institution, after submitting its completed merger application, to publish a notice of the merger application in a general circulation newspaper in the community or communities being served by the merging association and the resulting association.

III. Reason for Proposal. To better inform the members of State-chartered insured institutions of merger plans.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to § 563.22 of the rules and regulations for the Federal Savings and Loan Insurance Corporation (12 CFR 563.22) in order to require a merger applicant, after submitting its completed application, to publish in a newspaper having general circulation in the community or communities being served by the merging associations and the resulting association a notice of the filing of such application. By a companion Resolution (Resolution No. 75-567, dated June 25, 1975), the Board proposes a similar amendment to Part 546 of the rules and regulations for the Federal Savings and Loan System.

At present, § 563.22 prohibits an insured institution from increasing its accounts of an insurable type as a part of any merger or consolidation with another institution or through the purchase of bulk assets, without application to and approval by the Federal Savings and Loan Insurance Corporation. With regard to mergers involving State-chartered insured institutions subject to the Board's jurisdiction, the Board has not required notice and approval by members unless State law or a State-chartered association's charter or bylaws require it.

The proposal would require a merger applicant, after being informed by the Supervisory Agent that an application for approval of a merger is complete, to publish within 10 days from the date of such advice, in a newspaper or newspapers printed in the English language and having general circulation in the community or communities being served by the merging association and the resulting association, a notice, in the form prescribed by the Board, of the filing of such application. Where a number of the members of either applicant speak a language other than English and a newspaper in that language is published in the communities being served by such applicant, then a translation of such notice would have to also appear in such paper. The notice would contain the names of the associations involved, identify the proposed home office location, state specifically whether all branch offices are being continued or list those branch offices that are being discontinued, and indicate where interested persons could file communications concerning such application. An explicit exception to the notice requirement is provided for mergers instituted for supervisory reasons. Also, the proposal would defer to State law or the charter or bylaws of the State-chartered institution where they require notice no less timely, informative and widely circulated than the notice the Corporation would require.

Accordingly, the Board hereby proposes to amend §563.22 by redesignating as paragraph (a) the present undesignated paragraph thereof and adding thereto new paragraphs (b), (c), and (d) to read as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552, by August 8, 1975, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.5 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.5).

PART 563—OPERATIONS

Section 563.22 is amended by redesignating the undesignated paragraph as (a) and by adding new paragraphs (b), (c), and (d) to read as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

(a) No insured institution may at any time increase its accounts of an insurable type as a part of any merger or consolidation with another institution or through the purchase of bulk assets, without application to and approval by the Corporation. Application for such approval shall be upon forms prescribed by the Corporation and such information shall be furnished therewith as the Corporation may require.

(b) Upon determination by the Supervisory Agent that an application for approval of a merger is complete, the Supervisory Agent shall advise the applicants, in writing, to publish, within 10 days from the date of such advice, in a newspaper or newspapers printed in the English language and having general circulation in the community or communities being served by the merging associations and the resulting association, a notice of the filing of the application in the following form:

NOTICE OF FILING OF MERGER APPLICATION

Notice is hereby given that, pursuant to the provisions of § 563.22 of the Rules and Regulations for Insurance of Accounts, the ---------- Savings and Loan Association, --------, --------, and the ----------
(City) (State)
Savings and Loan Association, --------,
(City)
-------- have filed an application with the
(State)
Federal Savings and Loan Insurance Corporation for permission to merge, ---------- Savings and Loan Association to be the resulting association, operating under the (same name) (name of ---------- Savings and Loan Association). (The previous sentence should be appropriately modified if an acquisition of assets and assumption of liabilities is involved.) The resulting association intends to have its home office at ----------, --------, -------- (and to
(Street Address) (City) (State)
maintain all (or the) present branch offices (or offiec) or to discontinue a branch office (or offices) at the following location (or locations); ----------, --------, ---------.)
(Street Address) (City) (State)
The application has been delivered to the office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of --------, ---------- --------,
(City) (Street Address) (City)
---------. Any person may file communica-
(State)
tions concerning said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Four copies of any communication

should be filed. The application, information submitted therewith, and all communications are available for inspection by any person at the aforesaid office of the Supervisory Agent in accordance with the rules and regulations of the Federal Home Loan Bank Board.

---------- Savings and
Loan Association ----------.

If a significant number of the members of either applicant speak a language other than English and a newspaper in that language is published in the communities served by such applicant, an appropriate translation of such notice shall also be published in such newspaper.

(c) Promptly after publication of said notice or notices, the applicants shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

(d) In the case of an insured institution which is not a Federal association, the requirements of paragraph (b) of this section shall not apply if, under applicable State law or such institution's charter or bylaws, a notice to members is required which is no less timely, informative or widely distributed than the notice required under said paragraph (b). The requirements of paragraph (b) do not apply to any merger determined by the Corporation to be instituted for supervisory reasons.

(Sec. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp. p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] A. CATHERINE POORE,
Assistant Secretary.

[FR Doc.75-17241 Filed 7-1-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[CM-R5/2]

ADVISORY COMMITTEES

Reports on Closed Sessions

Pursuant to section 10(d) of the Federal Advisory Committee Act and the Office of Management and Budget Circular A-63 of March 27, 1974, advisory committees are required to prepare an annual report summarizing the discussion or activity of a closed or partially closed meeting which was authorized under an exemption as set forth in the Freedom of Information Act.

During the calendar year 1974, seven of the Department of State's Advisory Committees held closed or partially closed meetings. Reports for five of these Committees have now been completed and copies have been sent to the Library of Congress for public reference. The Committees' reports which are on file with the Library of Congress are:

Advisory Committee on the "Foreign Relations of the United States".
Advisory Committee to the United States Section International North Pacific Fisheries Commission.
Ocean Affairs Advisory Committee.
Department of State Advisory Committee on Science and Foreign Affairs.
Shipping Coordinating Committee Subcommittee on Code of Conduct for Liner Conferences.

Anyone interested in reading these reports may do so by contacting the Rare Book Room, Second Floor, Main Building, Library of Congress, 10 First Street SE., Washington, D.C. 20540.

The Advisory Committees on the Law of the Sea and the Northwest Atlantic Fisheries Advisory Committee reports have not been completed. A subsequent announcement will be published in the Federal Register when the reports for these two Committees are available in the Library of Congress.

SUE M. MORELAND,
Advisory Committee Management Officer.

June 23, 1975.

[FR Doc.75-17232 Filed 7-1-75;8:45 am]

Office of the Secretary

[Pub. Notice 453; 7508826]

JORDAN

Determination To Increase Grant Military Assistance

JUNE 19, 1975.

Pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended, and by virtue of the authority vested in me by section 101 of Executive Order 10973, as amended, I hereby determine that the furnishing to Jordan of an additional $10,000,000 in assistance from funds made available for military assistance under Chapter 2 of Part II of the Foreign Assistance Act of 1961, as amended, is in the security interest of the United States.

This determination and the justification therefor shall be reported to the Congress immediately and no funds shall be provided to Jordan pursuant to this determination until ten days after such report has been made.

This determination shall be published in the FEDERAL REGISTER.

[SEAL] HENRY A. KISSINGER,
Secretary of State.

[FR Doc.75-17227 Filed 7-1-75;8:45 am]

[Pub. Notice 454; No. 107-2; 7508826]

MIGRATION AND REFUGEE ASSISTANCE

Delegation of Functions

By virtue of the authority vested in me by the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601 et seq.) (hereinafter referred to as the Act), Executive Order No. 11077 of January 22, 1963, entitled "Administration of the Migration and Refugee Assistance Act of 1962" (hereinafter referred to as the Order), Pub. L. 94-23 (89 Stat. 87), Pub. L. 94-24 (89 Stat. 89), section 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658) and as Acting Secretary of State, it is ordered as follows:

Section 1. *Statement of purpose.* It is the intention to delegate to the Coordinator for Humanitarian Affairs all statutory and other authorities of the Secretary of State for the overall direction, coordination, and supervision of inter-departmental refugee and migration activities of the U.S. Government, to the full extent permitted by law.

In particular, the Coordinator is delegated the function assigned to the Secretary of State by section 1(c) of the order to "assume the leadership and provide the guidance for assuring that programs authorized under the Act best serve the foreign policy objectives of the United States."

SEC. 2. *Functions of the Coordinator for Humanitarian Affairs.* (a) Exclusive of the functions otherwise delegated herein, there are hereby delegated to the Coordinator for Humanitarian Affairs all functions conferred upon the Secretary of State by the Act and the Order.

SEC. 3. *Functions of the Deputy Under Secretary of State for Management.* (a) The following functions are delegated to the Deputy Under Secretary of State for Management:

(1) The functions enumerated in section 5(a)(1) of the Act and reserved to the Secretary of State by section 1(a)(1) of the Act and reserved to the Secretary of State by section 1(a)(3) of the Order insofar as they relate to compensation, allowances, and travel of personnel whose services are utilized primarily for the purpose of the Act.

(2) The functions enumerated in sections 5(a) (2), (3), (4), and (5) of the Act and reserved to the Secretary of State by section 1(a)(3) of the Order.

(3) The functions delegated to the Deputy Under Secretary of State for Management by subsection 3(a) (1) and (2) of this Delegation of Authority may be exercised by the organizational components vested with functions of that nature by the Organization Manual (1 FAM) and other delegations of authority.

SEC. 4. *General provisions.* (a) Any officer to whom functions are delegated by this Delegation of Authority may to the extent consistent with law, redelegate any of the delegated functions.

(b) Except to the extent that they may be inconsistent with this Delegation of Authority, all delegations, determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken or entered into with respect to any functions affected by this Delegation of Authority shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

(c) This Delegation of Authority supersedes and cancels Delegation of Authority No. 107-1 of October 17, 1966 (Public Notice No. 251, 31 FR 13866), and shall be deemed to have become effective on June 18, 1975.

Dated: June 21, 1975.

[SEAL] ROBERT S. INGERSOLL,
Acting Secretary.

[FR Doc.75-17228 Filed 7-1-75;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

ADVISORY COMMITTEE ON DISTILLED SPIRITS PLANT SUPERVISION

Meeting

A meeting of the Advisory Committee on Distilled Spirits Plant Supervision will be held on July 14 and 15, 1975, in Room 5041, 1200 Pennsylvania Avenue NW., Washington, D.C. The meeting will begin at 10:30 am on July 14, and at 9 am on July 15.

This will be the first meeting of the Committee, and will be devoted to organizational matters and identification of problem areas anticipated in the proposed changes in Federal supervision at distilled spirits plants.

The meeting will be open to public observation, and a limited number of seats are available.

Dated: June 30, 1975.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.75-17424 Filed 7-1-75;8:45 am]

Fiscal Service

[Dept. Circ. 570, 1974 Rev., Supp. No. 20]

PARLIAMENT INSURANCE CO.

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Parliament Insurance Company, Chicago, Illinois, under sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated, effective June 30, 1975.

The company was last listed as an acceptable surety on Federal bonds at 39 FR 26368, July 18, 1974.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds in lieu of bonds executed by Parliament Insurance Company.

Dated: June 30, 1975.

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.75-17208 Filed 7-1-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT FES 75-59]

PROPOSED IMPERIAL WILDERNESS AREA, IMPERIAL NATIONAL WILDLIFE REFUGE

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a final environmental statement which recommends that approximately 14,470 acres of the Imperial National Wildlife Refuge in Yuma County, Arizona, and Imperial County, California, be designated as wilderness within the National Wilderness Preservation System.

Copies of the final statement are available for inspection at the following locations:

U.S. Fish and Wildlife Service, 730 NE Pacific Street, PO Box 3737, Portland, Oregon 97208.
Headquarters, Imperial National Wildlife Refuge, Box AP, Blythe, California 92225.
U.S. Fish and Wildlife Service, Office of Environmental Coordination, Department of the Interior, 18th and C Streets NW., Room 2252, Washington, D.C. 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Please refer to the statement number.

Dated: June 26, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-17225 Filed 7-1-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

TIMBER MANAGEMENT PLAN MODOC NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Timber Management Plan, Modoc National Forest, California, USDA-FS-R5-FES (Adm)-75-6.

The environmental statement concerns a proposed timber management plan for the management of the timber resources on the forest. The proposed action provides for a Potential Yield of 756.4 million board feet and an annual Programmed Allowable Harvest of 62.6 million board feet based on a 160-year rotation during the 10-year period from July 1, 1975 to July 1, 1984. This timber management plan is in accordance with the objectives set forth in the Regional Multiple Use Guide for Northern California. It will be carried out in the State of California within the Counties of Siskiyou, Modoc and Lassen.

This final environmental statement was transmitted to the Council on Environmental Quality (CEQ) on June 24, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, 630 Sansome Street, Room 529, San Francisco, California 94111.
Modoc National Forest, 441 North Main Street, Alturas, California 96101.

A limited number of single copies are available, upon request, from Regional Forester Douglas R. Leisz, California Region, Forest Service, 630 Sansome Street, San Francisco, California 94111.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

GLENN P. HANEY,
Deputy Regional Forester.

JUNE 24, 1975.

[FR Doc.75-17214 Filed 7-1-75;8:45 am]

Soil Conservation Service

COMAL RIVER WATERSHED PROJECT, TEX.

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Comal River Watershed Project, Comal and Guadalupe Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by two single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken on or before July 17, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: June 25, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-17216 Filed 7-1-75;8:45 am]

LAKES OKABENA AND OCHEDA WATERSHED PROJECT, MINN.

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lakes Okabena

and Ocheda Watershed Project, Nobles County, Minnesota.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Harry M. Major, State Conservationist, Soil Conservation Service, USDA, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota, 55101, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, drainage, recreation, municipal water supply, and wildlife improvement. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by recreation facilities, a water level control structure, and 0.7 mile of diversion. The diversion will be constructed across the subwatershed divide, through an area that is predominantly cropland.

The environmental assessment file is available for inspection during the regular working hours at the following location:

Soil Conservation Service, USDA, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101.

Requests for single copies of the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken on or before July 17, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: June 25, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-17218 Filed 7-1-75;8:45 am]

UPPER LAKE FORK CREEK WATERSHED PROJECT, TEX.

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Lake Fork Creek Watershed Project, Hopkins, Rains, and Hunt Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by eight single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken on or before July 17, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: June 25, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-17217 Filed 7-1-75;8:45 am]

WEST FORK MAYFIELD CREEK WATERSHED PROJECT, KY.

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the West Fork Mayfield Creek Watershed Project, Graves and Carlisle Counties, Kentucky.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, USDA, 333 Waller Avenue, Lexington, Kentucky 40504, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by nine single-purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 333 Waller Avenue, Lexington, Kentucky 40504.

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken on or before July 17, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: June 25, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-17215 Filed 7-1-75;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

LINCOLN PARK ZOOLOGICAL GARDENS

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (39 FR 1851, January 15, 1974), the Public Display Permit issued to Lincoln Park Zoological Gardens on January 14, 1975, is modified in the following manner:

The two Pacific harbor seals may be taken from stocks of beached and stranded animals as available, provided the animals were legally taken and cannot be returned to the wild.

This modification is effective July 2, 1975.

Dated: June 11, 1975.

MORRIS M. PALLOZZI,
Acting Director, National Marine Fisheries Service.

[FR Doc.75-17197 Filed 7-1-75;8:45 am]

NORTHWEST FISHERIES CENTER

Application for Marine Mammal Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Northwest Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard, North, Seattle, Washington 98112, to take an unspecified number of all cetacean species throughout the range of the group.

The applicant proposes to conduct a long term study of cetacean population stocks by means of aerial and shipboard censuses, as flight and cruise time become available or are contracted. The research will include underwater observations and photography and sound recording. The application states that no cetaceans will be killed, captured, marked or handled during the course of this

work. Research collaborators from various other institutions will participate in this work.

The applicant has applied for a permit under the Endangered Species Act of 1973, to include those species of cetaceans subject to that legislation.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and the Offices of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, the Regional Director, National Marine Fisheries Service, Northwest Region, Lake Union Building, 1700 Westlake Avenue, North, Seattle, Washington 98109, the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33902, and the Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before August 1, 1975. The holding of such hearing is at the discretion of the Director.

Dated: June 25, 1975.

HARRY L. RIETZE,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-17199 Filed 7-1-75;8:45 am]

G. CAUSEY WHITTOW

Application for Scientific Research Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Dr. G. Causey Whittow, Professor of Physiology, Department of Physiology, University of Hawaii at Manoa, Honolulu, Hawaii 96822, to conduct research on Hawaiian monk seals (*Monachus schauinslandi*).

The proposed research is a study of the behavior and thermoregulatory physiology of the Hawaiian monk seal, in its natural environment, in order to determine the extent to which this species has adapted, as the only pinniped in Hawaiian waters, to a warm environment.

The research project will be conducted over a three-year period on Trig Island in French Frigate Shoals, a unit of the Hawaiian Islands National Wildlife Refuge. The research will consist of the following activities:

1. Detailed observation of the behavior of individual monk seals;
2. Counts of respiratory frequency, to determine if panting or increased rate of respiration occur;
3. Measurement of cutaneous, or skin, evaporation;
4. Assessment of heat loss to the sand;
5. Measurement of skin temperature under the hair coat; and
6. Collection of samples of the hair coat of several animals, for subsequent laboratory determination of the ability of the hair coat to reflect heat, as it might into a seal's skin.

The data collected during this study, together with data on climatic conditions on the beaches, will be correlated into time and energy budgets for the monk seals, which relate the time spent by an animal engaged in an activity with the amount of energy consumed by the activity, thus providing an indication of energy expenditure and food requirements of monk seals.

Concurrent with the study of behavior and thermoregulation of these seals, the Applicant will conduct observational censuses of the Trig Island Hawaiian monk seal population.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before August 1, 1975. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: June 26, 1975.

MORRIS M. PALLOZZI,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc. 75-17198 Filed 7-1-75;8:45 am]

GROUNDFISH FISHERIES

Closure of Season

Notice is hereby given pursuant to § 240.12(a), Title 50, Code of Federal Regulations as follows:

On June 18, 1975, The Director, National Marine Fisheries Service, was notified by the Executive Secretary of the International Commission for the Northwest Atlantic Fisheries that the accumulative and prospective catch of haddock in Division 4x of Subarea 4 had equaled 100 percent of the allowable yearly catch permitted under § 240.11.

I hereby announce that the season for taking haddock without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate at 0001 hours local time in the area affected on July 2, 1975. The restriction will remain in effect until 0001 hours on the first day of January, 1976.

Issued at Washington, D.C. and dated June 26, 1975.

JACK W. GEHINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.75-17171 Filed 7-1-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

PERFORMANCE STANDARD FOR DENTAL X-RAY FILM

Public Meeting

The Commissioner of Food and Drugs announces a public meeting to be held on July 16, 1975, to discuss a proposed amendment to a diagnostic x-ray performance standard to provide requirements for intraoral radiographic film and associated film-processing materials.

The Commissioner, under the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), has authority to prescribe by regulation, performance standards for electronic products to control the emission of electronic product radiation, if he determines that such standards are necessary for protection of the public health and safety. The Commissioner issued a performance standard for diagnostic x-ray systems and their major components (21 CFR 1020.30), which became effective on August 1, 1974.

The Food and Drug Administration was petitioned by the Commissioner of Health of the City of New York to amend the performance standard by adding requirements applicable to intraoral radiographic film and associated film-processing materials. Notice of the petition's availability was published at 39 FR 19528, June 3, 1974. The petitioner proposed the following: (1) That manufacturers of intraoral radiographic film be required to provide to purchasers a statement of the film speed in reciprocal roentgens; (2) that all intraoral radiographic film be required to have a speed range of no less than 12–24 reciprocal roentgens; and (3) that manufacturers of film-processing materials provide information on the effect of their products' use on film speed and also provide the processing procedures that would result in the achievement of an average optical density of 1.0 above base and fog density.

The petition from the City of New York was reviewed by the Technical Electronic Product Radiation Safety Standards Committee at a public meeting on September 18 and 19, 1974. The committee, a permanent statutory advisory committee to the Secretary of Health, Education, and Welfare, must be consulted prior to establishing standards under the act. The committee recommended that a proposed amendment be developed for the subjects addressed in the petition, with consideration given to the views expressed by the committee during formulation of the proposed amendment, and that the amendment be developed in consultation with other standard-setting organizations.

The Commissioner has determined that such an amendment may be necessary to protect the public health from unnecessary exposure to radiation during dental diagnostic x-ray procedures. He has therefore decided to hold a public meeting to discuss the necessity for, and content of, such an amendment to the performance standard. A proposed amendment will be developed, using the information obtained at the public meeting, and may be presented for review by the Technical Electronic Product Radiation Safety Standards Committee at the next meeting of the committee, scheduled for September 17 and 18, 1975.

The public meeting to discuss the necessity for, and the content of, the proposed amendment will be held at 9 a.m. on July 16, 1975 at the Bureau of Radiological Health, in Rm. 416, 12720 Twinbrook Parkway, Rockville, MD. Manufacturers and users of intraoral radiographic film, as well as other interested parties, are invited to participate in this meeting. An agenda will be available upon request and will be distributed at the meeting.

In the interest of adequate preparation, interested persons or organizations wishing to attend the meeting and present data, views, or arguments on the proposed amendment should contact the Bureau of Radiological Health (HFX–460), 5600 Fishers Lane, Rockville, MD 20852, (301) 443–3426. Documentation of such data, views, or arguments received up to 15 days following the July 16, 1975 meeting will be accepted for consideration in developing the proposed amendment.

Dated: June 27, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.75–17341 Filed 7–1–75;8:45 am]

[Docket No. 75F–0059]

BUCKMAN LABORATORIES, INC.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4H3019) has been filed by Buck Laboratories, Inc., 1256 N. McLean Blvd., Memphis, TN 38108, proposing that § 121.1155 *Chemicals for controlling microorganisms in cane-sugar and beet-sugar mills* be amended to provide for the safe use of a combination of disodium cyanodithioimidocarbonate and potassium *N*-methyldithiocarbamate for controlling microorganisms in cane-sugar and beet-sugar mills.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Room 15B–42 or the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: June 24, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75–17189 Filed 7–1–75;8:45 am]

[Docket No. 75F–0061]

SCM CORP.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5A3102) has been filed by Glidden-Durkee Division, SCM Corp., 900 Union Commerce Bldg., Cleveland, OH 44115, proposing that § 121.1048 *Lactylic esters of fatty acids* (21 CFR 121.1048) be amended in paragraph (b), by deleting from the "Foods" column the term "Solid-state" from the food item "Solid-state edible vegetable fat-water emulsions." The removal of this term would expand the meaning of substitutes for milk or cream in beverage coffee to include all physical forms such as dry, frozen, and liquid coffee whiteners.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Room 15B–42 or the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: June 24, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75–17187 Filed 7–1–75;8:45 am]

[Docket No. 75F–0060]

SCM CORP.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 5A3103) has been filed by Glidden-Durkee Division, SCM Corp., 900 Union Commerce Bldg., Cleveland, OH 44115, proposing that § 121.1221 *Ethoxylated mono- and diglycerides (polyoxyethylene (20) mono- and diglycerides of fatty acids)* (21 CFR 121.1221) be amended (1) in the section heading by adding "polyglycerate 60" as an alternative name for the food additive ethoxylated mono- and diglycerides and (2) in the listing in paragraph (c), by deleting from item 6. in the "Use" column the term "solid-state," to expand the meaning of substitutes for milk or cream in beverage coffee to include all physical forms such as dry, frozen, and liquid coffee whiteners.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Room 15B–42 or the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: June 24, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75–17188 Filed 7–1–75;8:45 am]

National Institutes of Health

CANCER CONTROL INTERVENTION PROGRAMS REVIEW COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Cancer Control Intervention Programs Review Committee, National Cancer Institute, on July 11, 1975, at the National Institutes of Health, Building 31, Conference Room 7, Bethesda, Maryland, which was published in the FEDERAL REGISTER on June 10, 1975, Vol. 40, No. 112—page 24763, because the number of proposals available for review were inadequate to justify the convening of a committee meeting.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

JUNE 26, 1975.

[FR Doc.75–17233 Filed 7–1–75;8:45 am]

RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Recombinant DNA Molecule Program Advisory Committee, which was published in the FEDERAL REGISTER on June 10, 1975 (40 FR 24764).

The entire meeting was to have been open to the public on July 18–19, 1975 from 9 a.m. to adjournment, but will be open to the public from 9 a.m. on July 18 to 10 a.m. on July 19, 1975. The meeting will be closed to the public from 10 a.m. to 12 noon on July 19, 1975 in accordance with provisions set forth in sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review and discussion of an application under the National Research Service Awards program involving recombinant DNA molecules and containing information of a proprietary or confidential nature, including a detailed research protocol, design and other technical information; and personal information concerning individuals associated with the application.

Dated: June 27, 1975.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.75-17234 Filed 7-1-75;8:45 am]

Office of the Secretary

NATIVE AMERICAN PROGRAMS

Interim Evaluation Standards for Programs and Projects

Under section 810(b) of the Native American Programs Act of 1974, (Title VIII of the Economic Opportunity Act of 1964 as amended), the Secretary of Health, Education, and Welfare must develop and publish standards for evaluation of program and project effectiveness in achieving the objectives of Title VIII. Such standards must be published prior to obligating funds for the programs and projects covered by this title with respect to Fiscal Year 1976.

The standards are set forth below to meet the requirements of section 810(b). They apply to all programs and projects funded by grants by the Office of Native American Programs under sections 803, 804 and 805.

The standards will be used by the Office of Native American Programs (ONAP) for evaluation of program and project effectiveness in achieving the objectives of Title VIII (i.e., to promote economic and social self-sufficiency). As stated in section 810(b), the extent of compliance with these standards is to "* * * be considered in deciding whether to renew or supplement financial assistance authorized under this title." These standards are effective immediately.

The standards are based on the purpose of Title VIII and on the long-range goals developed by ONAP to achieve that purpose. The standards are a tool for assessing the extent to which ONAP programs in general, and individual ONAP grantees in particular, are succeeding in the attainment of the goals. These long-range goals are:

1. To develop the capacity of Native American governing bodies and organizations to use and focus on planning as the basic method to improve resource allocations and effectiveness of services in Native American communities.

2. To achieve the development of the necessary social and economic infrastructure in Native American communities to increase self-sufficiency.

3. To eliminate, through Native American governing institutions, the most critical gaps in the range of social and human development services necessary for self-sufficiency.

4. To improve and increase the Federal services delivered to Native Americans by:

a. Achieving the necessary changes in Federal administrative procedures, legislation, and regulations to provide effective and consistent Federal policy for Native Americans.

b. Building an adequate Native American data base and developing the methods for target group planning in order to maximize the impact, efficiency, and outputs of ONAP, Departmental and other Federal agency resources.

Starting with these four goals, interim standards and criteria for evaluation have been established. "Standards" are general principles against which program and project performance can be assessed; "criteria" are specific dimensions or aspects of the standards which are amenable to direct observation or measurement.

It is understood that grantees may not immediately comply with all evaluation standards, especially grantees under section 803. Compliance with the standards for section 803 grantees will be judged in terms of a self-comparison (i.e., recent performance relative to past achievements for, or relative to prior status of, that grantee).

Projects to be funded under sections 803, 804 and 805 will be addressed separately.

SECTION 803—FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

Two types of standards are presented for section 803 projects, which are also referred to as "General Community Programming." The first group of standards builds directly on long-range goals 1, 2, and 3 (see Standards 1, 2, and 3 below). Standard 4 focuses directly on the existence and efficacy of the grantee's system for monitoring progress toward meeting objectives established in its application. Each standard is followed by several criteria which should help to ascertain whether a grantee is, indeed, meeting that standard.

STANDARD 1: THE EXTENT TO WHICH ONAP GRANTEES AND TRIBAL GOVERNMENTS USE AND FOCUS ON PLANNING AS THE BASIC METHOD TO IMPROVE RESOURCE ALLOCATIONS AND EFFECTIVENESS OF SERVICES

Criterion 1–a. Is the grantee and/or tribal government planning to develop, or now implementing, planning processes and mechanisms such as assessment of target population problems and needs; setting of long-range goals; development of strategies to achieve the goals; identification of existing services and resources (Federal, State, local, private); development of an annual objectives planning system which includes tracking the achievement of realistic short-term objectives?

Criterion 1–b. Is the grantee and/or tribal government planning to develop, or now implementing, a resource allocation process for funding the priorities established in its plan?

Criterion 1–c. Is the grantee and/or tribal government planning to develop, or now implementing, an evaluation system for measuring the effectiveness of its activities?

Criterion 1–d. Is the grantee and/or tribal government consulting with its constituency in the planning process?

STANDARD 2: THE EXTENT TO WHICH ONAP GRANTEES AND TRIBAL GOVERNMENTS ARE DEVELOPING THE NECESSARY SOCIAL AND ECONOMIC INFRASTRUCTURE TO INCREASE THE SELF-SUFFICIENCY OF NATIVE AMERICAN COMMUNITIES

Criterion 2–a. Is an economic development plan being developed and/or implemented which identifies a realistic strategy for building community institutions (e.g., retail and wholesale businesses, credit unions, manufacturing, cash agricultural production, transportation and communication systems, housing)?

Criterion 2–b. Is a plan being developed and/or implemented which contains a viable strategy for basic education and for training (or retraining) the technical manpower necessary for economic and social self-sufficiency?

Criterion 2–c. Do proposed projects aimed at improving the social and economic infrastructure relate directly to the long-range plans for development, and address the priorities identified in the plan?

STANDARD 3: THE EXTENT TO WHICH ONAP GRANTEES AND TRIBAL GOVERNMENTS ARE DEVELOPING PLANS OR PROVIDING SERVICES TO ELIMINATE THE MOST CRITICAL GAPS IN SOCIAL AND HUMAN DEVELOPMENT SERVICES NECESSARY FOR SELF-SUFFICIENCY

Criterion 3–a. Does the planning process (see Standard 1) provide for the collection of information on gaps in the existing service delivery system (i.e., identification of unmet priority needs)?

Criterion 3–b. Do service projects proposed for ONAP funding directly address the priority gaps as identified in the planning process?

Criterion 3-c. Does the planning process (see Standard 1) contain a system for identifying and a strategy for utilizing available—but partially or wholly untapped—resources from sources other than ONAP?

STANDARD 4: THE EXTENT TO WHICH EACH ONAP PROJECT UNDER SECTION 803 IS ACHIEVING THE STATED OBJECTIVES AS ESTABLISHED BY THAT GRANTEE AND/OR TRIBAL GOVERNMENT.

Criterion 4-a. Has the grantee and/or tribal government established a system for monitoring progress toward meeting the objectives established in its grant application, including collection of input, output, and impact data where relevant?

Criterion 4-b. Are the results (including outputs and impact) of the operational objectives known, and if so, how do they compare with the results originally expected?

SECTION 804—TECHNICAL ASSISTANCE AND TRAINING

Since most technical assistance and training projects are contracts of rela-

tively short duration, it is necessary to distinguish between standards for selecting new projects (see Standards 1 and 2 below) and standards for assessing the effectiveness of existing projects (see Standard 3). Criteria are not presented for these standards since, in effect, they are contained in administrative issuances, contract/grant guidelines, planning documents, and work statements for individual projects.

STANDARD 1 (SELECTION): THE EXTENT TO WHICH A TECHNICAL ASSISTANCE AND TRAINING PROJECT ADDRESSES THE ISSUES CONTAINED IN ONAP'S LONG-RANGE GOALS; SUPPORTS THE PRIORITY CAPACITY-BUILDING NEEDS OF GENERAL COMMUNITY PROGRAMMING GRANTEES; SUPPORTS ONAP'S OPERATING PRIORITIES.

STANDARD 2 (SELECTION): THE EXTENT TO WHICH A TECHNICAL ASSISTANCE AND TRAINING PROJECT APPLICATION CLEARLY STRATEGIES TO ACHIEVE THOSE OBJECTIVES; CLEARLY PRESENTS A STAFFING AND MANAGEMENT PLAN FOR IMPLEMENTING THE PROJECT; CONTAINS A SELF-ASSESSMENT PLAN FOR DETERMINING THE EFFECTIVENESS OF THE TECHNICAL ASSISTANCE AND TRAINING ACTIVITY.

STANDARD 3 (EFFECTIVENESS): THE EXTENT TO WHICH A TECHNICAL ASSISTANCE AND TRAINING PROJECT IS ACCOMPLISHING THE ACTIVITIES LAID OUT IN THE ORIGINAL APPLICATION, INCLUDING ACHIEVEMENT OF PROJECT OBJECTIVES, IMPLEMENTATION OF PLANNED STRATEGIES, IMPLEMENTATION OF PROPOSED PROJECT STAFFING AND MANAGEMENT, IMPLEMENTATION OF THE PROPOSED SELF-ASSESSMENT PLAN.

SECTION 805—RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

As in the case of technical assistance and training projects, most research and demonstration projects are contracts or grants of relatively short duration. We must, therefore, distinguish between standards for selecting new projects (see Standards 1 and 2 below) and standards for assessing the effectiveness of existing projects (see Standard 3). Criteria are not presented for these standards since, in effect, they are contained in administrative issuances, contract/grant guidelines, planning documents, and work statements for individual projects.

STANDARD 1 (SELECTION): THE EXTENT TO WHICH A RESEARCH OR DEMONSTRATION PROJECT ADDRESSES THE ISSUES CONTAINED IN ONAP'S LONG-RANGE GOALS AND ADDRESSES THE PRIORITY INFORMATION NEEDS OF ONAP AND GRANTEES.

STANDARD 2 (SELECTION): THE EXTENT TO WHICH A RESEARCH OR DEMONSTRATION PROJECT APPLICATION CLEARLY LAYS OUT ITS SPECIFIC OBJECTIVES AND STRATEGIES TO ACHIEVE THOSE OBJECTIVES; CLEARLY PRESENTS A STAFFING AND MANAGEMENT PLAN FOR IMPLEMENTING THE PROJECT; CONTAINS A SELF-ASSESSMENT PLAN (IF A DEMONSTRATION OR PILOT PROJECT) FOR DETERMINING EFFECTIVENESS; CONTAINS A DISSEMINATION AND/OR UTILIZATION PLAN.

STANDARD 3 (EFFECTIVENESS): THE EXTENT TO WHICH A RESEARCH OR DEMONSTRATION PROJECT IS ACCOMPLISHING THE ACTIVITIES LAID OUT IN THE ORIGINAL APPLICATION, INCLUDING THE ACHIEVEMENT OF PROJECT OBJECTIVES, IMPLEMENTATION OF PLANNED STRATEGIES, IMPLEMENTATION OF PROPOSED PROJECT STAFFING AND MANAGEMENT, IMPLEMENTATION OF THE PROPOSED SELF-ASSESSMENT PLAN, AND IMPLEMENTATION OF THE PROPOSED DISSEMINATION AND/OR UTILIZATION PLAN.

Effective Date: July 1, 1975.

Dated: June 25, 1975.

STANLEY B. THOMAS, JR.,
Assistant Secretary for Human Development.

[FR Doc.75-17186 Filed 7-1-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-459-DR; NFD-269]

TENNESSEE

Major Disaster Notice Amendment

Notice of Major Disaster for the State of Tennessee, dated March 24, 1975, and amended on March 27, 1975, March 28, 1975, March 31, 1975, April 2, 1975, April 4, 1975, and April 7, 1975, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 22, 1975:

The Counties of: Carroll, Humphreys.

Dated: June 25, 1975.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.75-17179 Filed 7-1-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA WAIVER PETITION NO. HS-75-13]

EAST ERIE COMMERCIAL RAILROAD CO.

Petition for Exemption From Hours of Service Act

The East Erie Commercial Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. 61, 62, 63, and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-75-13, Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590. Communications received before July 29, 1975 will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on June 27, 1975.

DONALD W. BENNETT,
Chief Counsel, Federal Railroad Administration.

[FR Doc.75-17251 Filed 7-1-75;8:45 am]

[FRA WAIVER PETITION NO. HS-75-14]

WYANDOTTE SOUTHERN RAILROAD CO.

Petition for Exemption From Hours of Service Act

The Wyandotte Southern Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 USC 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 USC 61, 62, 63, and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-75-14, Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590. Communications received before July 29, 1975 will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

Issued in Washington, D.C. on June 27, 1975.

DONALD W. BENNETT,
Chief Counsel, Federal Railroad Administration.

[FR Doc. 75-17250 Filed 7-1-75;8:45 am]

CIVIL SERVICE COMMISSION

COMMUNITY SERVICES ADMINISTRATION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Community Services Administration to fill by noncareer executive assignment in the excepted service the position of Director, Headquarters Operations Office, Office of the Director, Office of Operations.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-17206 Filed 7-1-75;8:45 am]

DEPARTMENT OF COMMERCE

Title Change in Noncareer Executive Assignment

By notice of June 9, 1971, FR Doc. 71-7977 the Civil Service Commission au-

thorized the Department of Commerce to fill by non-career executive assignment the position of Director, Congressional Affairs, Office of the Administrator, National Oceanic and Atmospheric Administration. This is notice that the title of this position is now being changed to Director, Office of Congressional Liaison, National Oceanic and Atmospheric Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-17207 Filed 7-1-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 393-5; Dockets No. 336 et al]

PESTICIDE PRODUCTS CONTAINING HEPTACHLOR OR CHLORDANE

Objections and Request for Hearing

Notice is hereby given, pursuant to § 164.8 of the rules of practice (40 CFR 164.8) issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq., 1973 Supp.), that 17 proceedings have been instituted by, in effect, the filing of objections and requests for a hearing by applicants contesting the denial of applications for registration under the Act of pesticide products containing heptachlor or chlordane and intended for shipment in intrastate or interstate commerce (See 40 FR 22587). These proceedings have been consolidated for hearing with 56 other proceedings challenging the Administrator's notice of intent to cancel registrations of pesticide products containing heptachlor and chlordane; dated November 18, 1974 (See 39 FR 41298 and 40 FR 4186).

For information concerning the issues involved and other details of these proceedings, interested persons are referred to the dockets of these proceedings on file with the Hearing Clerk, Environmental Protection Agency, Room 1019 East Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

HERBERT L. PERLMAN,
Chief Administrative Law Judge.

JUNE 26, 1975.

[FR Doc.75-17168 Filed 7-1-75;8:45 am]

[FRL 391-8; OPP-33000/273 & 274]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington DC 20460.

On or before September 2, 1975 any person who (a) is or has been an applicant (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after September 2, 1975.

Dated: June 24, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/273)

EPA File Symbol 1022-UOT. Chapman Chem. Co., PO Box 9158, Mallory Station, Memphis TN 38109. PQ-58. Active Ingredients: Copper 8-Quinolinolate 2.50%; 8-hydroxyquinoline 2.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 1022-UOI. Chapman Chem. Co., PO Box 9158, Mallory Station, Memphis TN 38109. PQ-54. Active Ingredients: Copper 8-Quinolinolate 2.50%; O-phenylphenol 6.00%; 4-chloro-2-phenyl & 6-chloro-2-phenylphenol 3.00%. Method of Support; Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 12050-E. Chemco Chem. Co., 115 Cole, Dallas TX 75207. QK-16 NONSELECTIVE LIQUID WEED KILLER. Active Ingredients: 2,4-Dichlorophenoxy Acetic Acid propylene glycol butyl ether esters 1.46%; Bromacil (5-Bromo-3-sec-butyl-6-methyl uracil) 1.00%; Pentachlorophenols 0.86%; Other chlorophenols 0.10%; (2,4-Dichlorophenoxy acetic acid equivalent) 0.90%. Method of Support: Application proceeds under 2(c) of interim policy. PM23

EPA File Symbol 36845-L. Connolly-R & D Associates, 10 Linda St., Parsippany NJ 07054. FLEA KILLING SOAP FOR DOGS. Active Ingredients: Pyrethrin 0.025%; Technical Piperonyl Butoxide 0.050%; N-Octyl bicycloheptene dicarboxamide 0.084%; Petroleum Distillate 0.120%; Anhydrous Soap 83.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 1021-RGAG. McLaughlin Gormley King Co., 8810 10th Ave. N, Minneapolis MN 55427. D-TRANS INTERMEDIATE 1830. Active Ingredients: d-trans Allethrin (allyl homolog of Cinerin I) 7.28%; Piperonyl-butoxide, technical 32.73%; N-octyl bicycloheptene dicarboximide 18.19%; Petroleum Distillate 1.79%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 36371-T. National Chem., Inc., 940 W. Oakwood Rd., Oak Creek WI 53154. NC-35 SANITIZER-CLEANER. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 148-REEN. Thompson-Hayward Chem. Co., PO Box 2383, Kansas City KS 66110. PROPANIL M O. Active Ingredients: 3',4'-Dichloropropionanilide 54.6%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA File Symbol 7546-RT. United States Chemical Corporation, PO Box 366, Watertown WI 53094. CHLOR BAC NO. 277. Active Ingredients: Sodium dichloro-s-traicinetrione dihydrate 25%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 9782-LG. Woodbury Chem. Co., PO Box 4319, Princeton FL 33030. FUME-33 SOIL FUMIGANT. Active Ingredients: Methyl Bromide 67%; Chloropicrin 33%. Method of Support: Application proceeds under 2(c) of interim policy. PM11

APPLICATIONS RECEIVED (OPP-33000/274)

EPA File Symbol 8612-ON. B & G Co., PO Box 20372, Dallas TX 75220. MALATHION 50 EMULSIFIABLE CONCENTRATE. Active Ingredients: Malathion (0,0-Dimethyl Phosphorodithioate of diethyl mercaptosuccinate) 50.00%; Xylene Range Aromatic Hydrocarbon Solvent 41.30%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 1626-RE. Budd Paint Co., 1608 15th Ave. W, Seattle WA 98119. CUPROTECT SLOUGHING TYPE-ANTI-FOULING MARINE COPPER BOTTOM PAINT GREEN 70-158. Active Ingredients: Cuprous Oxide 20.835% Copper Naphthenate 2.26%; Phenyl Phenol 0.336%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 1626-RU. Budd Paint Co. CUPROTECT SLOUGHING TYPE-ANTI-FOULING MARINE COPPER BOTTOM PAINT RED 70-140. Active Ingredients: Cuprous Oxide 20.752%; Copper Naphthenate 2.270%; Phenyl Phenol 0.337%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 1626-RG. Budd Paint Co. CUPROTECT SLOUGHING TYPE-ANTI-FOULING MARINE COPPER BOTTOM PAINT BROWN 70-157. Active Ingredients: Cuprous Oxide 20.752%; Copper Naphthenate 2.270%; Phenyl Phenol 0.337%. Method of Support: Application proceeds under 2(c) of interim policy. PM 24

EPA File Symbol 1626–RR. Budd Paint Co. FISHERMAN'S SLOUGHING TYPE-ANTI-FOULING MARINE COPPER BOTTOM PAINT RED 70–140. Active Ingredients: Cuprous Oxide 11.44%; Copper Naphthenate 2.07%; Phenyl Phenol 0.307%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 6959–UG. Cessco, Inc., PO Box 12452, Charlotte NC 28205. CESSCO 7. Active Ingredients: Pyrethrins I & II 0.700%; Technical Piperonyl Butoxide 3.500%; Refined Petroleum Distillate 15.800%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 239–EUUN. Chevron Chem. Co., 940 Hensley St. Richmond CA 94804. ORTHENE ORNAMENTAL INSECT SPRAY. Active Ingredients: Acephate - (O,S-Dimethyl acetylphosphoramidothioate) 0.25%; (5-Benzyl-3-furyl)methyl 2,2-dimethyl - 3 - (2 - methylpropenyl) cyclopropanecarboxylate 0.10%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 239–EUGO. Chevron Chem. Co., Ortho Div., 940 Hensley St. Richmond CA 94804. ORTHO SYSTEMIC ROSE AND FLOWER SPRAY. Active Ingredients: Acephate-(O,S-Dimethyl acetylphosphoramidothioate) 0.25%; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.10%; Folpet-(n-trichloromethyl thiophthalimide) 0.75%. Method of Support: Application proceeds under 2(c) interim policy. PM16

EPA File Symbol 36845–U. Connolly-R & D Associates. 10 Linda St., Parsippany NJ. 07054. DOG TICK KILLING SHAMPOO. Active Ingredients: Pyrethrin 0.050%; Technical Piperonyl Butoxide 0.100%; N-Octyl bicycloheptene dicarboxamide 0.168%; Petroleum Distillate 0.240%; 2,3:4.5 Bis (2-butylene) tetrahydro-2-furaldehyde 0.200%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 36845–I. Connolly-R & D Associates. TICK KILLING SHAMPOO FOR DOGS. Active Ingredients: Pyrethrin 0.50%; Technical Piperonyl Butoxide 0.100%; N-Octyl bicycloheptene dicarboxamide 0.168%; Petroleum Distillate 0.240%; 2,3:4,5 Bis (2-butylene) tetrahydro-2-furaldehyde 0.200%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 36845–O. Connolly-R & D Associates. DOG TICK AND FLEA SHAMPOO. Active Ingredients: Pythethrin 0.050%; Technical Piperonyl Butoxide 0.100%; N-Octyl bicycloheptene dicarboxamide 0.168%; Petroleum Distillate 0.240%; 2,3:4,5 Bis (2-butlylene) tetrahydro-2-furaldehyde 0.200%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 36845–T. Connolly-R & D Associates. TICK AND FLEA SHAMPOO FOR DOGS. Active Ingredients: Pyrethrin 0.50%; Technical Piperonyl Butoxide 0.100%; N-Octyl bicycloheptene dicarboxamide 0.168%; Petroleum Distillate 0.240%; 2,3:4,5 Bis (2-butylene) tetrahydro-2-furaldehyde 0.200%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 36845–A. Connolly-R & D Associates. DOG FLEA KILLING SOAP. Active Ingredients: Pyrethrin 0.025%; Technical Piperonyl Butoxide 0.050%; N-Octyl bicycloheptene dicarboxamide 0.084%; Petroleum Distillate 0.120%; 2,3:4,5 Bis (2-butylene) tetrahydro-2-furaldehyde 0.200%; Anhydrous Soap 83.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 464–LEU. The Dow Chem. Co., PO Box 1706, Midland, MI 48640. DOW PROFESSIONAL TURF INSECTICIDE. Active Ingredients: Chlorpyrifos [O,O-diethyl O - (3,5,6-tricholo-2-pyridyl) phosphorothioate] 41.2%; Aromatic Petroleum derivative solvent 29.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 13437–RN. DuCor Chem. Corp., PO Box 6086, Orlando FL 32803. DUCOR WEED-STOP. Active Ingredients: Petroleum oil 94.94%; 2,4-Dichlorophenoxyacetic acid, isocotyl ester 1.09%; Bromacil (5-bromo-3-Sec-butyl - -6 - methyluracil 0.98%; Pentachlorophenol 0.80%; Other chlorophenols 0.09%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA Reg. No. 279–2876. FMC Corp., Agricultural Chem. Div., 100 Niagara St., Middleport, NY 14105. FURADAN 4 FLOWABLE. Active Ingredients: Carbofuran 40.64%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Additional use. PM12

EPA File Symbol 10693–RN. Flo-Kem Inc., 10402 Susana Rd., Compton, CA 90221. FLO-KEM TRIPLE-2 GERMICIDAL CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 524–285. Monsanto Co., Agricultural Div., 800 N. Lindbergh Ave., St. Louis, MO 63166. LASSO. Active Ingredients: Machlor 43.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New uses. PM25

EPA File Symbol 9591–EO. Nationwide Chem. Prod., PO Box 3027, Hamilton, OH 45013. NATIONWIDE EXTERMINATING ANT AND ROACH KILLER. Active Ingredients: O-Isopropoxyphenyl Methylcarbamate 1,000%; 2-Butoxyethanol 8.936%; Petroleum Distillates 60.000%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA Reg. No. 3624–24. Nova Products Inc., PO Box 5086, Kansas City, KS 66119. NOVA CHLORDAN–74. Active Ingredients: Chlordane Technical 74%; Petroleum Distillate 18%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Additional use. PM15

EPA Reg. No. 7001–128. Occidental Chem. Co., PO Box 198, Lathrop CA 95330. BEST SNAIL & SLUG PELLETS. Active Ingredients: Metaldehyde 2.75%. Method of support: Application proceeds under 2(c) of interim policy. Republished: Additional uses. PM12

EPA Reg. No. 1812–49. Parramore and Griffin, PO Box 188, Valdosta GA 31601. 25% WETTABLE MALATHION PREMIUM GRADE. Active Ingredients: Malathion 25%: Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA Reg. No. 476–1917. Stauffer Chem. Co., 1200 S. 47th St., Richmond CA 94804. IMIDAN 50–WP. Active Ingredients: N-(mercaptomethyl) phthalimide, S-(0,0-dimethyl phosphorodithioate) 50%. Method of Support: Application proceeds under 2 (b) of interim policy. Republished: Additional uses. PM15

EPA File Symbol 1778–LG. Western Chem. Co., 417–427 S. 4th St., St. Joseph MO 64501. INSECT-TOX. Active Ingredients: Pyrethrins 0.052%; Piperonyl butoxide, technical 0.260%; 0,0-Diethyl 0-(2-isopropyl-6-methyl - 4-pyrimidinyl) Phosphorothioate 0.500%; Petroleum distillate 99.112%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 2935–UNT. Wilbur-Ellis Co., PO Box 1286, Fresno CA 93715. RED-TOP GOLDEN-DEW. Active Ingredients: Sulfur 85.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 8253–E. Youngs Drug Products Corp., 865 Centennial Ave., Piscataway NJ 08854. TRIPLE X. Active Ingredients: Pyrethrins 0.30%; Piperonyl Butoxide, Technical 3.00%; Petroleum Distillate 1.20%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

[FR Doc.75–16986 Filed 7–1–75;8:45 am]

[FRL 393–6]

SCIENCE ADVISORY BOARD ECOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held beginning at 1 p.m., July 25, 1975, in the Conference Room, National Water Quality Laboratory, 6201 Congdon Boulevard, Duluth, Minnesota.

This meeting is the third meeting of the Ecology Advisory Committee. The agenda includes a report on the activities of the Executive Committee, Science Advisory Board; Five Year Reserve Mining Case; Activities of the Lake Superior Study Center, University Minnesota, Duluth; Activities of the Center for Lake Superior Environmental Studies, University of Wisconsin, Superior; Sea Grant Program, University Minnesota, Duluth Technical Assistance: Research in Action; and Member Items of Interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain additional information, should contact Dr. J. Frances Allen, Executive Secretary, Ecology Advisory Committee (703) 557–7720.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

JUNE 25, 1975.

[FR Doc.75–17166 Filed 7–1–75;8:45 am]

[FRL 388–6]

HYDROCARBON AND CARBON MONOXIDE EMISSION STANDARDS, 1977

Suspension

On March 5, 1975, I suspended for one year the statutory hydrocarbons (HC) and carbon monoxide (CO) emission standards applicable to light duty vehicles manufactured beginning with the 1977 model year (see 40 FR 11900). That action followed a three-week public hearing (January 21–February 7), held to consider the applications for suspension of Chrysler Corporation, Ford Motor Company and General Motors Corporation, and the resulting suspension was made applicable at that time to those three applicants only. Today I am announcing that the applicability of that

suspension has been expanded to include all manufacturers of light duty vehicles.

I am taking this action for the following reasons. A decision to suspend the standards must be based on findings required by section 202(b)(5)(C)(i), (ii), (iii) and (iv) of the Clean Air Act, as amended. In the past, EPA has required those manufacturers who applied after the initial suspension hearing was held to establish only that they had made all good faith efforts to meet the statutory standards (section 202(b)(5)(C)(ii)) in order to merit a suspension. This modified requirement was imposed for those manufacturers because EPA regarded findings (i) (a suspension is essential to the public interest) and (iii) and (iv) (effective technology required to meet the standards is not generally available) which resulted from the hearing as applicable to the automobile industry as a whole, and hence, conclusive as to all applications for suspension.

Because of the unique circumstances surrounding the findings which led to the March 5 suspension decision, I have determined that the finding of "good faith" made in that decision should also be regarded as applicable to the automobile industry as a whole. In view of these circumstances, further investigation of the 1977 suspension issues would serve no useful purpose, and thus, no further applications by other manufacturers are required. The applications filed by the three manufacturers will be deemed for purposes of section 202(b)(5)(A) to be applications for all manufacturers subject to standards prescribed by section 202(b)(1).

The unique circumstances arose because of the evidence which led me to find that effective technology was not available and that it was essential to the public interest that a suspension be granted. The evidence indicated that, although there exists technology, in the form of the catalytic converter, sufficient to meet the statutory standards, that technology is not "effective", because its use would increase significantly emissions of sulfuric acid, and because the weight of scientific opinion indicates a legitimate cause for concern that such emissions represent a risk to public health. The significant point to be made for the purposes of this discussion is that I found in the March 5 decision that technology does exist and could be applied generally to meet the 1977 statutory standards. Such a finding of technological success greatly simplified the required finding of "good faith" when compared to the situation where the question of technological feasibility is answered in the negative. It must be concluded that if technology exists and is available to the industry as a whole, then the industry as a whole has demonstrated the required "good faith" effort. I effectively reached that conclusion in the March 5 decision when I stated that

> * * * the success of the auto industry [in developing technology to attain the standards] warrants a finding of "good faith by definition.

Today I am merely implementing that conclusion through an expansion of that suspension.

As a result of this decision, the 1975 national interim standards of 1.5 gm/mi HC and 15 gm/mi CO shall be applicable to all light duty vehicles distributed in commerce during the 1977 model year.

Dated: June 26, 1975.

JOHN QUARLES,
Acting Administrator.

[FR Doc.75-17167 Filed 7-1-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19417; FCC 75-742]

CABLE TELEVISION IMPORTATION OF DISTANT SIGNAL SPORTS EVENTS

Commission Directs Staff To Draft Rule

JUNE 25, 1975.

The Federal Communications Commission has directed its staff to prepare a final document which will impose restrictions on the sports events which are broadcast on distant television stations and carried by cable television systems. This action was taken pursuant to the Commission's rule making proceeding in Docket 19417.

The directions given to the staff call for a new rule requiring the deletion of sports programming carried on cable television systems in certain instances where a local sports team is playing at home. The rule is intended to maintain the present level of sports telecasts by preserving the right of sports clubs and their leagues to impose local television blackouts of their home games.

The rule will provide a 35-mile zone of protection corresponding to the cable signal carriage rules into which distant telecasts of the same game may not be imported by a cable television system when the home team is playing at home, and when the game is not available on a local television signal. The rule is directed primarily at professional and collegiate team sports, but will also apply to other sports events which are televised. The obligations imposed by the rule will be triggered upon notification to the cable system by the local sports club or its league as to when blacked out home games are to be televised by distant television stations carried by the cable system.

In order to avoid the disruption of viewing habits established prior to the Commission's notice of proposed rule making in this proceeding, the rule will not apply to signals being lawfully carried by cable systems on or before March 31, 1972.

The new rule that the Commission has directed its staff to draft will not go into effect until August 1, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-17195 Filed 7-1-75;8:45 am]

[FCC 75-743]

MID-FLORIDA TELEVISION CORP. ET AL.

Memorandum Opinion and Order

In re Applications of Mid-Florida Television Corporation, Orlando, Florida, Docket No. 11083, File No. BPCT-1801; Central Nine Corporation, Orlando, Florida, Docket No. 17339, File No. BPCT-3697; Florida Heartland Television, Inc., Orlando, Florida, Docket No. 17341, File No. BPCT-3737; Comint Corporation, Orlando, Florida, Docket No. 17342, File No. BPCT-3788; TV 9, Inc., Orlando, Florida, Docket No. 17344, File No. BPCT-3740; for construction permit for new television broadcast station. 30 FR 14610 remanding for further hearing.

1. This proceeding involves the five mutually exclusive applications of Mid-Florida Television Corporation, Central Nine Corporation, Florida Heartland Television, Inc., Comint Corporation, and TV 9, Inc. for a new television broadcast station to operate on Channel 9 in Orlando, Florida. The Review Board's Decision granting the application of Mid-Florida, 33 FCC 2d 1 (1972), review denied, 37 FCC 2d 559 (1972), was subsequently set aside by the U.S. Court of Appeals for the District of Columbia Circuit, and the case was remanded for further proceedings, 495 F. 2d 929 (1973), rehearing denied, 495 F. 2d 941 (1974), cert. denied, 43 Law Week 3256 (1974).

2. In the Court's view, the issuance of a federal indictment, alleging illegal gambling activities in violation of Federal and State law, against Martin Segal, who was at that time the Secretary, a Director, the General Counsel, and a 1.540 percent stockholder in Mid-Florida, requires a further hearing to determine the extent to which those allegations may reasonably affect the basic and/or comparative qualifications of Mid-Florida. The Court also stated that further consideration must be given to the comparative evaluation of the showings of ascertainment efforts, proposed programming, and civic activities by Mid-Florida and of the proposed participation of black stockholders by Comint. In our Memorandum Opinion and Order, 49 FCC 2d 846, released November 15, 1974, we requested the parties to comment upon the scope of the remand hearings concerning the Segal matter and the extent to

which the record should be reopened on any other matter.[1]

3. While all of the parties agree that the record should be reopened for further evidentiary hearings on the Segal matter, there is disagreement as to the scope and procedures of the further hearing. Mid-Florida urges that issues should be specified to determine whether Segal violated or conspired to violate Title 18 of the U.S. Code and the impact of any such finding on its qualifications. Mid-Florida also contends that under *D and E Broadcasting Company*, 1 FCC 2d 78 (1965), the burdens of proof and of proceeding with the introduction of evidence should be on the other parties with respect to the alleged criminal activity, that it should be served with a bill of particulars specifying the facts the other parties intend to prove, and that it should be allowed to present evidence concerning Segal's character and reputation before and after the time of the alleged acts.

4. The other applicants all argue that Mid-Florida's suggested issues are too narrow; Florida Heartland additionally urges that the burden of going forward with the evidence should be on Mid-Florida; and Comint argues that a special Administrative Law Judge should be appointed, that the Bureau should be directed to take an active role in the determination of Mid-Florida's character qualifications, and that the hearing should be held in Orlando. The Bureau suggests that issues should be specified to determine the facts and circumstances regarding Segal's indictment and his participation in Mid-Florida's application and the impact of those facts and circumstances upon Mid-Florida's basic and comparative qualifications. Citing *Elyria-Lorain Broadcasting Company*, FCC 65–857, 6 RR 2d 191, released September 29, 1965, and *Midwest Radio-Television, Inc.*, 18 FCC 2d 1011 (Rev. Bd. 1969), the Bureau also asserts that the burden of proof should be on Mid-Florida with respect to all aspects of the Segal matter, but that the other parties should bear the burden of going forward with the evidence concerning Segal's indictment.[2]

5. In considering the scope of the further hearing on the Segal matter, it must be noted first that the burdens and purposes of criminal and administrative hearings differ in significant respects and that our concern and responsibility under the Communications Act is not limited solely to whether or not there has been a violation of Federal criminal law. Rather, as the Court of Appeals pointed out, the questions raised in this proceeding involve Mid-Florida's qualifications and stem from its association with an individual who has been the subject of various allegations of misconduct. Under these circumstances, we are convinced that the issues to be specified for this further hearing must be broad enough to explore all facets of the charges against Segal and of his association with Mid-Florida.

6. However, since the allegations against Segal were raised by the other applicants, since they do not involve the use of a broadcast facility, and since Mid-Florida does not appear to have any greater knowledge of those allegations than the other applicants, we agree with Mid-Florida that both the burden of proceeding and the burden of proof should be on the other parties in this respect. Other questions concerning discovery practices, presentation of evidence, and the location of the hearing are premature at this point and are, in any event, matters which may best be handled initially in accordance with the usual hearing procedures. Finally, we perceive no reason why this proceeding requires the extraordinary appointment of a special Administrative Law Judge, and we are confident that the Bureau will participate in this hearing, in accordance with its usual practice on issues affecting an applicant's qualifications, so as to develop a full and complete record.

7. Turning to the other matters mentioned by the Court of Appeals, Mid-Florida, with Central Nine's support, urges that the record should also be reopened on the comparative ascertainment and programming issues. Mid-Florida asserts that the applicants' surveys were compiled prior to the adoption of, and do not comply with the current requirements of, the *Primer on the Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971), and that, if the record is not reopened, the Commission would be forced to make a decision in this case without any assurance that the needs and interests of the Orlando area had been properly ascertained. Mid-Florida further contends that the record should be reopened to consider evidence of ownership by minority groups, since the Court of Appeals made new law on this point and since the need to make such a showing previously could not have been anticipated, and that it should be allowed to present additional evidence of its principals' civic activities prior to April 19, 1969, to clear up questions raised by the Court of Appeals.

8. Florida Heartland, Comint, and TV 9 argue that no remand hearing is required on the comparative aspects of this case and that a decision can be rendered on the basis of the existing record as supplemented by new proposed findings and conclusions on the matters discussed by the Court of Appeals. Citing *Amendments by Applicants in Pending Hearing Cases to Comply with the Primer on Community Problems*, 30 FCC 2d 136 (1971), and *Mid-Florida Television Corporation*, 30 FCC 2d 799 (1971), all three applicants urge that there is no reason to allow a further showing on the comparative ascertainment issue since the Commission has clearly held that such evidence would be given no weight in the comparative analysis of the applicants. However, Comint contends that each of the applications in this proceeding should be examined to determine whether it is presently in com-

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[1] Comments were filed by the Broadcast Bureau on November 22, 1974, and by Mid-Florida, Central Nine, Florida Heartland, Comint, and TV 9 on November 29, 1974. Replies were filed by Mid-Florida, Central Nine, Florida Heartland, Comint, TV 9, and the Bureau on December 16, 1974. In addition, on January 13, 1975, Mid-Florida filed a motion to accept further reply comments, asserting that the other parties presented certain arguments for the first time in their reply pleadings. Mid-Florida also submitted its further reply comments on January 13, 1975, and thereafter TV 9 filed an opposition to Mid-Florida's motion and a further response to the reply comments on January 20, 1975; the Bureau filed an opposition to the motion on January 22, 1975; Comint filed an opposition to the motion and a response to the reply comments on January 23, 1975; Central Nine filed an opposition on January 24, 1975; and Mid-Florida filed a reply statement on January 30, 1975. Central Nine and Florida Heartland also filed motions to strike Mid-Florida's reply statement on February 4, and February 6, 1975, and Comint filed an objection to the reply statement on February 7, 1975. Mid-Florida filed oppositions to the two motions to strike on February 6 and 7, 1975, and Central Nine filed a reply on February 10, 1975.

Thereafter, Mid-Florida filed petitions to amend its application and to enlarge the issues on April 16, 1975. Oppositions were filed to both petitions by TV 9 on April 23, 1975, by Comint on April 25, 1975, by Florida Heartland on April 25 and April 30, 1975, and by Central Nine on May 1, 1975. The Bureau filed comments on the petition for leave to amend on April 25, 1975, and an opposition to the petition to enlarge on April 30, 1975. Mid-Florida filed two reply pleadings to the oppositions to its petition to enlarge on April 25 and May 2, 1975, contrary to the provisions of Section 1.45(b) of the Rules.

Finally, Comint filed a petition for immediate implementation of mandate on May 15, 1975. Comments upon this request were filed by Central Nine and the Bureau on May 20, 1975, and by Mid-Florida on May 15, 1975. The latter also requests that certain portions of Comint's petition be stricken, but this demand need not be given any consideration since it is set forth in a responsive pleading. *Cf. Industrial Business Corp.*, 40 FCC 2d 69 (Rev. Bd. 1973). Although the delay in taking action on this matter is due in no small measure to the plethora of pleadings filed by the parties, we agree that this case should move forward, and accordingly we shall grant Comint's request.

[2] In our view, no discussion of Mid-Florida's further reply comments is warranted. The request is an unauthorized pleading, and it will be denied. It was not filed until several weeks after the usual time for such replies, it adds nothing of substance which could not have been argued in Mid-Florida's earlier pleadings, and it has accomplished nothing but delay in our consideration of this matter. See *KFPW Broadcasting Company*, 44 FCC 2d 310, at 314–315 (1973). Moreover, Mid-Florida's reply statement filed on January 30, 1975, is also an unauthorized pleading, since it is a response to the oppositions to Mid-Florida's further reply comments rather than to the oppositions to Mid-Florida's motion to accept those comments. However, in light of our denial of Mid-Florida's request to file further comments, the motions of Central Nine and Florida Heartland to strike Mid-Florida's reply statement will be dismissed as moot.

pliance with the *Primer's* ascertainment requirements.[3]

9. With respect to Mid-Florida's requests for reopening the record, the general rule is that further hearings will not be allowed for the purpose of changing or improving an applicant's posture in a comparative proceeding such as this one. *Cf., Flower City Television Corp.*, 4 FCC 2d 384 (1966). Since a full evidentiary hearing has already been held, since the parties had a chance to adduce all relevant evidence, and since the parties will have a full opportunity to argue all points and to file further proposed findings and conclusions on the questions raised by the Court of Appeals in the light of the existing record, Mid-Florida's requests to reopen concerning minority ownership and its principals' civic activities are directly contrary to the doctrine of administrative finality. Furthermore, any reopening to allow Mid-Florida to make a further showing would require a similar opportunity for each of the other applicants; such a reopening would result in a rehearing of many questions fully tried previously; and it would substantially delay the ultimate resolution of this case. Thus, it is apparent that there is no reason or necessity for a reopening on these aspects of the comparative hearing.

10. On the other hand, notwithstanding our previous rulings in this case and elsewhere, precluding any comparative consideration of revised ascertainment efforts, see the citations in paragraph 8, *supra*, we are persuaded that the particular circumstances now reflected in this record warrant a different result here. The Court of Appeals, in its remand order, held that Mid-Florida's showings of its ascertainment efforts and proposed programming were improper and that a further comparison of the applicants should be made without reliance upon such inadmissible evidence. As a practical matter, the effect of the Court's order is to deprive Mid-Florida of a major part, if not virtually all, of its affirmative evidence, which was in the record on these issues as a result of favorable evidentiary rulings received throughout the hearing process. Failure to allow Mid-Florida to submit a new showing thus would in effect impose a significant comparative demerit on that applicant before the remand proceedings even commence and raise serious questions of administrative due process and elemental fairness. Moreover, in addition to the fact that all of the applicants' ascertainment surveys and program proposals were originally made more than eight years ago and before the adoption of the *Primer*, which changed the basic ground rules for such efforts, it must be noted that serious deficiencies have been found in each of the other applicants' ascertainment showings.[4] Under these circumstances, we are convinced that the public interest would be best served by deleting the existing ascertainment and proposed programming issues and affording all of the applicants 90 days after the release of this order to file amendments reflecting their current ascertainment efforts and program proposals.[5]

11. *ACCORDINGLY, it is ordered:*

(a) That the record in this proceeding is reopened and remanded for a further hearing on the following issues:

(i) To determine all of the facts and circumstances concerning the allegations against Martin Segal set forth in the federal indictment of November 1, 1971.

(ii) To determine all of the facts and circumstances concerning Martin Segal's participation in and withdrawal from the application of Mid-Florida Television Corporation in this proceeding.

(iii) To determine, in light of the evidence adduced pursuant to issues (i) and (ii), above, whether Mid-Florida Television Corporation has the requisite qualifications to be a Commission licensee or whether any comparative demerit should be assessed against Mid-Florida Television Corporation.

(b) That the burden of proceeding and the burden of proof shall be on Mid-Florida Television Corporation with respect to issues (ii) and (iii), above, and on the other parties in this proceeding with respect to issue (i), above;

(c) That each of the applicants is permitted to file an amendment within 90 days after the release of this Memorandum Opinion and Order, reflecting its current ascertainment efforts and programming proposal, but all further requests contained in the pleadings filed in this proceeding on November 22, November 29, and December 16, 1974, are denied;

(d) That the comparative ascertainment and proposed programming issues specified in the Review Board's Memorandum Opinion and Order, FCC 67R–284, 8 FCC 2d 876, adopted July 5, 1967, are deleted, subject to the right of any party to request new issues as indicated in this order;

(e) That the presiding Administrative Law Judge, after affording the parties an opportunity for further hearings on new matters and the filing of proposed findings and conclusions and reply pleadings on all issues, shall prepare a Supplemental Initial Decision complying with the directives of the United States Court of Appeals in this proceeding and taking into account all relevant evidence adduced in the original and remand hearings;

(f) That the motion to accept further reply comments filed by Mid-Florida Television Corporation on January 13, 1975, is denied;

(g) That the motions to strike filed by Central Nine Corporation on February 4, 1975, and Florida Heartland Television, Inc. on February 6, 1975, are dismissed as moot;

(h) That the petitions for leave to amend application and to enlarge issues filed by Mid-Florida Television Corporation on April 16, 1975, are denied; and

(i) That the petition for immediate implementation of mandate filed by Comint Corporation on May 15, 1975, is granted.

Adopted: June 24, 1975.

Released: June 26, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[6]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-17193 Filed 7-1-75;8:45 am]

[3] Mid-Florida, in its petition for leave to amend and to enlarge, proffers updated responses allegedly in compliance with our current requirements concerning ascertainment and Equal Employment Opportunity policies, and it requests specification of basic qualifications issues against the other applicants in light of their failure to file similar statements. With respect to the EEO aspects of Mid-Florida's requests, this proceeding was designated for hearing long before our current policies were enunciated, and the ultimate winning applicant will be required to comply with all appropriate regulations before a license is issued. Under these circumstances, we perceive no basis warranting any relief for Mid-Florida's EEO requests.

[4] The Review Board in its Decision in this matter held that Comint's ascertainment efforts were flawed by the failure of a significant portion of its stockholders to participate in its surveys, 33 FCC 2d at 30, and by its failure to interview a sufficient number of persons outside of the city of Oriando, *ibid.*, at 25; both Florida Heartland and Central Nine were faulted for failing to survey blacks adequately, *ibid.*, at 27–28; and TV 9's ascertainment was deficient in light of its failure to contact more than two blacks, the failure of its five proposed full-time integrated stockholders to make community contacts, and the failure of its president to make community contacts, *ibid.*, at 26.

[5] In view of this determination, Comint's request to apply the *Primer's* current requirements to the pending proposals in this proceeding need not be given further consideration here. However, after the amendments have been filed, there will be an opportunity for fifteen days to file with the Review Board a petition to enlarge issues consistent with the provisions of § 1.229 of the Rules, if any party wishes to request new comparative ascertainment and programming issues or a disqualifying ascertainment issue against one or more of the applicants on the basis of the showings proffered at that time. By the same token, it is clear that Mid-Florida's requests for leave to amend and to enlarge concerning ascertainment matters are now premature and that they may be rejected without further discussion.

[6] Commissioners Hooks and Quello absent.

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meetings scheduled for the future are as follows:

MARINE RADIOTELEPHONE OPERATOR EDUCATION

This is notice of 7th Meeting of Special Subcommittee No. 68, Thursday, July 17,

1975—9:30 a.m. in Room 752, 1919 M Street, NW, Washington, D.C.

AGENDA

1. Call to order; Chairman's report.
2. Adoption of Agenda.
3. Acceptance of Summary Records.
4. Reports on Work Assignments.
5. Progress reports on incompleted Work Assignments.
6. Discussion of problem areas.
7. Solicitation of Work Assignments.
8. Other business.
9. Establishment of next meeting date.

For details notify: A. Newell Garden, Chairman, SC–68, Raytheon Company, 141 Spring Street, Lexington, Massachusetts 02173, Phone: [617] 862–6600 (Ext. 414).

RTCM EXECUTIVE COMMITTEE

This is notice of a July Meeting on Thursday, July 17, 1975—1:45 p.m., in Conference Room 847, 1919 M Street, NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Approval of Minutes.
4. Committee Reports.
5. Status Reports on Other Committees.
6. Review of Terms of Reference for Special Committees.
7. Report on maritime satellite communication developments.
8. Report of Finance Committee.
9. Summary Reports and Announcements.
10. New business.
11. Establishment of next meeting date.

For details notify: Howard L. Peterson, Executive Secretary, RTCM.

To comply with the advance meeting notice requirements of Pub. L. 92–463, a comparatively long interval of time occurs between publication of this notice and the actual meetings. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend any of the preceding listed meetings should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for each meeting are available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone: (202) 632–6490.)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final reports are approved by the RTCM Executive Committee. All RTCM meetings are open to the public.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75–17226 Filed 7–1–75;8:45 am]

FEDERAL MARITIME COMMISSION

ATLANTIC GULF SERVICE AB COMBI LINE, ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 22, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness with particularity. If a statement describing the discrimination or unfairness wit hparticularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. W. A. J. Van Campenhout, Seatrain Lines, Inc., Container Division, Port Seatrain, Weehawken, New Jersey 07087.

Agreement No. 10164 would establish a discussion agreement among the above-named carriers to be known as the Westbound Scandinavia/Baltic U.S. Gulf Discussion Agreement in the trade from ports in Denmark, Finland, Norway, Poland, and Sweden to U.S. Gulf ports in the Brownsville, Texas/Key West, Florida range including ports, places or points on inland waterways tributary to both port ranges. It provides that the carriers may confer with each other and discuss together any subject of common interest such as, but not limited to, rates, charges, classifications, practices, procedures, related tariff matters and reserve the right to take independent action under terms and conditions set forth in the Agreement.

By Order of the Federal Maritime Commission.

Dated: June 27, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75–17244 Filed 7–1–75;8:45 am]

CONTINENTAL-SOUTH ATLANTIC FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 22, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10165, among American Export Lines, Inc., Combi Line, Sea-Land Service, Inc., Seatrain International, S.A. and United States Lines, Inc., establishes a conference in the trade from or via European ports in the Bordeaux/Hamburg range to or through U.S. South Atlantic ports. The agreement also provides that LASH/SEABEE operators may charter barges to other carriers in the trade for operation pursuant to conference rates, rules and regulations.

By Order of the Federal Maritime Commission.

Dated: June 27, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75–17245 Filed 7–1–75;8:45 am]

IBERIAN/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as

amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Martime Commission, Washington, D.C. 20573, on or before July 22, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 1126 Sixteenth Street, N.W., Washington, D.C. 20036.

Agreement No. 9615–16, among the members of the above-named Conference, is an application for permanent approval of the Conference's inland authority in Europe.

By Order of the Federal Maritime Commission.

Dated: June 27, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75–17246 Filed 7–1–75;8:45 am]

IBERIAN/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. 20573, on or before July 22, 1975. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition, (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 1126 Sixteenth Street, NW., Washington, D.C. 20036.

Agreement No. 9615 D.R.–5, among the members of the above-named Conference, is an application for permanent approval of the inland authority in the conference's dual rate contract.

By Order of the Federal Maritime Commission.

Dated: June 27, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75–17248 Filed 7–1–75;8:45 am]

[No. 75–13]

NORTH ATLANTIC FRENCH ATLANTIC FREIGHT CONFERENCE AND NORTH ATLANTIC BALTIC FREIGHT CONFERENCE PETITION FOR A DECLARATORY ORDER

Time for Filing Answers

This proceeding was instituted as a result of petition of two conferences for the Commission to declare the proper interpretation of certain provisions of section 14b(2) of the Shipping Act, 1916. Replies to the petition were invited by the Commission and were to be submitted by June 5, 1975. The Commission received several replies which espouse a range of positions regarding the issues in this proceeding.

The Commission previously denied Hearing Counsel's request to alter the filing schedule in this proceeding to permit further comment because the request was made on the eve of the due date for replies and notice of any change could not be issued in time. The denial was said to be subject to further order upon review of the replies.

It appears from replies received that further comment would be helpful in disposing of the issues in this proceeding. Accordingly, notice is hereby given that answers to previously filed replies may be filed on or before July 30, 1975.

Parties listed in Appendix A, who previously filed replies to the petition, are hereby required to serve a copy of this reply if they have not already done so, on each of the other parties listed in Appendix A on or before July 3, 1975.

Answers also shall be served on each of the parties and submitted to the Commission with an original and fifteen copies.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, New York 10004.
Paul J. McElligott, Esq., Ragan & Mason, 900 17th Street, N.W., Washington, D.C. 20006.
Elkan Turk, Jr., Esq., Burlingham, Underwood & Lord, 25 Broadway, New York, New York 10004.
Stanley O. Sher, Esq., Billig, Sher & Jones, P.C., 1126 16th Street, N.W., Washington, D.C. 20036.
Leonard G. James, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.
Peter G. Sandlund, Washington, D.C. Representative, CENSA, Suite 400, 919 18th Street, N.W., Washington, D.C. 20006.
Donald J. Brunner, Director, Bureau of Hearing Counsel, Federal Maritime Commission, Washington, D.C. 20573.
Paul J. Kaller, Hearing Counsel, Bureau of Hearing Counsel, Federal Maritime Commission, Washington, D.C. 20573.

[FR Doc.75–17243 Filed 7–1–75;8:45 am]

SOUTH ATLANTIC-NORTH EUROPE RATE AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 22, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated herinafter)

and the statement should indicate that this has been done.

Modification of Agreement and Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 9984–7, among the member lines of the above-named rate agreement, deletes traffic moving from or via ports in the Bordeaux/Hamburg range to or through U.S. South Atlantic ports from the scope of the basic agreement. The parties desire deletion to be contingent on approval of the Continental—South Atlantic Freight Conference Agreement.

By Order of the Federal Maritime Commission.

Dated: June 27, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75–17247 Filed 7–1–75;8:45 am]

GENERAL ACCOUNTING OFFICE

INTERSTATE COMMERCE COMMISSION

Receipt of Regulatory Reports Review Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO on June 20, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before July 21, 1975, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from the Regulatory Reports Review Officer, 202–376–5425.

INTERSTATE COMMERCE COMMISSION

Request for clearance of revised quarterly report Form QFR, required to be filed by some 1,000 Class I and 3,000 Class II common and contract motor carriers of property (those with average annual gross carrier operating revenues of $3,000,000, or more, and those with $500,000, but less than $3,000,000, respectively, from property motor carrier operations) pursuant to section 220 (a) of the Interstate Commerce Act. Data are used for economic regulatory purposes.

The report form is revised to include selected balance sheet data to be reported by all Class I common and contract carriers. The report includes minor changes in the method of reporting fuel purchased and consumed, and reflects in the Uniform System of Accounts for Class I and Class II Common and Contract Carriers of Property, as amended.

It is estimated the reporting burden is increased an average of one quarter of an hour per report per carrier. The total reporting burden per quarter per carrier is estimated at 4¼ hours. Reports are mandatory and are available for use by the public.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.75–17229 Filed 7–1–75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP75–347]

COLORADO INTERSTATE GAS CO.

Application

JUNE 11, 1975.

Take notice that on May 27, 1975, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP75–347 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon service and for a certificate of public convenience and necessity authorizing revised peak day and annual sales of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon deliveries of gas for direct sale to CF&I Steel Corporation (CF&I) of 10,000 Mcf per day, Ideal Cement Company (Ideal) of 2,625 Mcf per day, and the City of Colorado Springs (Colorado Springs) of 3,100 Mcf per day to reduce the firm peak day commitment level a total of 15,725 Mcf. Applicant alleges that this will reduce the aggregate nonjurisdictional transmission sales by 1,069,000 Mcf annually. Applicant further proposes an increase in the jurisdictional firm peak day commitments of 15,725 daily and an increase of 1,069,000 in the aggregate jurisdictional transmission and field system annual volumetric entitlement. Applicant proposes that the reductions in deliveries to CF&I and Colorado Springs become effective October 1, 1975, and that the reduction in deliveries to Ideal become effective on January 1, 1976. Applicant states that it has sufficient peak day supplies in the 1975–76 heating season to make the full 15,725 Mcf in jurisdictional sale increases effective October 1, 1975.

Applicant proposes to increase the maximum daily volume obligation to Northern Natural Gas Company's Peoples Natural Gas Division (Peoples) by 7,000 Mcf daily, primarily used for agricultural irrigation, which Applicant alleges has an off-season peak. Applicant further states that Western Slope Gas Company, a purchaser of gas from Applicant, has a policy of pro rating to its customers additional gas entitlements to be received, resulting in approximately 46 Mcf per day of its proposed increase to be used as boiler fuel.

Applicant states that until there are additional gas supplies, Applicant's peak day commitments for high priority usage can only be increased when there is a corresponding decrease in commitments for low priority usage. Applicant further states that the volumes of gas released from the firm peak day commitments were used as boiler fuel by Colorado Springs and CF&I and for the firing of kilns by Ideal and as reallocated this gas will be used for residential and small commercial purposes. The changes proposed by Applicant are set forth in the appendix hereto. Applicant further states that no additional facilities are required, that none will be abandoned, and that approximately $72,053 in total annual revenue will result from the proposed revisions.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 1, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

APPENDIX.—*Present and proposed transmission system peak day volumes by customer, rate schedule, and class*

[All volumes in thousand cubic feet at 14.65 pounds per square inch absolute]

Particulars	Presently authorized Docket No. CP73-238	Proposed increase (decrease) pending in Docket No. CP75-79	Total volumes pending in Docket No. CP75-79	Proposed increase (decrease) fiscal year 1976	Total volumes proposed fiscal year 1976
JURISDICTIONAL CUSTOMERS					
Rate Schedule G-1:					
City of Colorado Springs, Colo	118,568	3,049	121,617	2,134	123,751
City of Fort Morgan, Colo	4,650	130	4,780	91	4,871
City of Trinidad, Colo	6,000	143	6,143	99	6,242
Greeley Gas Co	9,155	191	9,346	134	9,480
Northern Gas Co	400		400		400
Northern Natural Gas Co., Peoples division	24,400	627	25,027	439	25,466
Public Service Co. of Colorado	495,231	11,969	507,200	8,375	515,575
Western Gas Interstate Co	3,499		3,499		3,499
Total Rate Schedule G-1	661,903	16,109	678,012	11,272	689,284
Rate Schedule SG-1:					
City of Walsenburg, Colo	2,000		2,000	25	2,025
Eastern Colorado Utility Co	2,400	44	2,444	31	2,475
Town of Keyes, Okla	400		400	5	405
Total Rate Schedule SG-1	4,800	44	4,844	61	4,905
Rate Schedule P-1:					
Cheyenne Light, Fuel, & Power Co	50,910	950	51,860	665	52,525
Citizens Utilities Co	23,675		23,675	300	23,975
Kansas-Nebraska Natural Gas Co., Inc	5,000		5,000		5,000
Mountain Fuel Supply Co	1,500		1,500		1,500
Raton Natural Gas Co	6,400	187	6,587	131	6,718
Western Slope Gas Co	200,633	4,710	205,343	3,296	208,639
Total Rate Schedule P-1	288,118	5,847	293,965	4,392	298,357
Rate Schedule PS-1:					
Cheyenne Light, Fuel, & Power Co	500		500		500
City of Colorado Springs, Colo	46,432		46,432		46,432
City of Fort Morgan, Colo	2,400		2,400		2,400
City of Trinidad, Colo	1,690		1,690		1,690
Greeley Gas Co	1,160		1,160		1,160
Northern Natural Gas Co., Peoples division	9,500		9,500		9,500
Public Service Co. of Colorado	152,329		152,329		152,329
Raton Natural Gas Co	3,700		3,700		3,700
Western Gas Interstate Co	957		957		957
Western Slope Gas Co	54,184		54,184		54,184
Total Rate Schedule PS-1	272,852		272,852		272,852
Rate Schedule H-1:					
Natural Gas Pipeline Co. of America	50,000		50,000		50,000
Total jurisdictional customers	1,277,673	22,000	1,299,673	15,725	1,315,398
NONJURISDICTIONAL CUSTOMERS					
General firm:					
City of Colorado Springs, Colo	5,000		5,000	(3,100)	1,900
City of Trinidad, Colo	1,100		1,100		1,100
C.F. & I. Steel Corp	35,000		35,000	(10,000)	25,000
Great Western Sugar Co	14,000	(2,000)	12,000		12,000
Ideal Cement Co	3,825		3,825	(2,625)	1,200
Public Service Co. of Colorado	24,500	(20,000)	4,500		4,500
Total general firm	83,425	(22,000)	61,425	(15,725)	45,700
Total nonjurisdictional customers	83,425	(22,000)	61,425	(15,725)	45,700
Total transmission system	1,361,098		1,361,098		1,361,098

NOTE: The 7,000-Mcf increase in contract demand proposed for Peoples Division under Rate Schedule F-2 is neither a transmission system delivery nor a winter peak day volume; therefore, it is not shown on this schedule.

Particulars	Actual deliveries			Proposed		Difference increase (decrease) [4]
	1972	1973	1974	1975 [2]	1976 [3]	
JURISDICTIONAL TRANSMISSION SALES						
Rate Schedule G–1 customers:						
City of Colorado Springs, Colo	19,539,250	21,753,435	19,882,443	24,603,000	24,549,000	(54,000)
City of Fort Morgan, Colo	957,548	1,110,871	993,937	1,200,000	1,200,000	
City of Trinidad, Colo	867,630	1,094,859	930,446	1,152,000	1,150,000	(2,000)
Greeley Gas Co	3,641,990	3,903,602	3,236,462	4,120,000	4,069,000	(51,000)
Northern Gas Co	109,043	137,396	148,066	146,000	146,000	
Northern Natural Gas Co	7,679,052	8,126,785	8,421,046	9,490,000	9,534,000	44,000
Public Service Co. of Colorado	99,042,808	111,977,500	102,794,774	116,575,000	117,076,000	501,000
Western Gas Interstate Co	1,449,499	1,770,825	2,514,272	3,216,000	3,233,000	(13,000)
Total Rate Schedule G–1	133,286,820	149,875,363	138,921,446	160,502,000	160,927,000	425,000
Rate Schedule H–1 customer: Natural Gas Pipeline Co. of America	18,278,750	18,285,141	18,307,448	18,250,000	18,250,000	
Rate Schedule SG–1 customers:						
City of Walsenburg, Colo	132,294	172,396	160,989	240,000	240,000	
Eastern Colorado Utility Co	191,456	240,446	206,123	293,000	293,000	
Town of Keyes, Okla	40,249	52,945	49,202	50,000	56,000	6,000
Total Rate Schedule SG–1	363,999	465,787	416,314	583,000	589,000	6,000
Rate Schedule P–1 customers:						
Cheyenne Light, Fuel, & Power Co	12,440,225	13,686,260	12,490,290	12,619,000	12,953,000	34,000
Citzens Utilities Co	4,868,089	5,160,442	4,543,357	5,505,000	5,510,000	5,000
Kansas-Nebraska Natural Gas Co	6,743,642	7,093,181	7,436,424	7,665,000	7,665,000	
Mountain Fuel Supply Co		539,702	544,103	547,000	547,000	
Raton Natural Gas Co	1,236,885	1,504,088	1,455,206	1,766,000	1,761,000	(5,000)
Western Slope Gas Co	53,551,226	61,835,277	59,780,309	59,171,000	59,278,000	107,000
Total Rate Schedule P–1	78,840,067	89,818,950	86,249,689	87,573,000	87,714,000	141,000
Total jurisdictional transmission sales	230,769,636	258,445,241	243,894,897	266,908,000	267,480,000	572,000
JURISDICTIONAL FIELD SALES						
Rate Schedule F–1 customer: Natural Gas Pipeline Co. of America	58,098,707	58,461,201	58,791,563	58,400,000	58,400,000	
Rate Schedule F–2 customer: Northern Natural Gas Co	3,957,112	4,465,969	6,407,162	5,740,000	6,237,000	497,000
Total jurisdictional field sales	62,055,819	62,927,170	65,198,725	64,140,000	64,637,000	497,000
Total jurisdictional sales	292,825,455	321,372,411	309,093,622	331,048,000	332,117,000	1,069,000
Nonjurisdictional transmission sales	63,334,041	55,303,214	53,685,034	48,341,000	47,272,000	(1,069,000)
Total transmission system and jurisdictional field system sales	356,159,496	376,675,625	362,778,656	379,389,000	379,389,000	
Special off-system sales [7]		294,932	[5] 370,265	[6] 261,000	[7] 1,581,000	1,320,000
Nonjurisdictional field sales [7]	27,012,005	24,776,621	24,312,836	25,106,000	24,908,000	(198,000)

[1] Fiscal years are 12-month periods ending September 30.
[2] Authority for the volumes shown in this column was requested by Colorado Interstate Gas Co. in Docket No. CP75–79, currently pending Commission approval.
[3] These volumes represent the annual sales levels being proposed by the instant application.
[4] The volumes shown in this column are the differences in annual volumes from the levels requested in Docket No. CP75–79.
[5] Short-term emergency sale to Rocky Mountain Natural Gas Co.
[6] This volume consists solely of a sale to Mountain Fuel Supply Co. which was approved in Docket No. CP75–42.
[7] The volumes shown are estimated and the actual level of sales will be based upon the production of the fields in which this gas is to be sold.

Summary of proposed changes in maximum daily volume obligations[1] *[All Volumes in thousand cubic feet at 14.65 pounds per square inch absolute]*

Customer	Maximum daily volume obligations	
	From	To
Cheyenne Light, Fuel & Power Co.:		
Cheyenne	49,000	53,000
Carpenter-Burns	300	450
City of Trinidad, Colo.:		
Trinidad	7,833	7,932
City of Walsenburg, Colo.:		
Walsenburg Meter Station	2,000	2,025
Town of Keyes, Okla.:		
Keyes City Gate	400	405
Northern Natural Gas Co., Peoples division—F-2	35,000	42,000
PUBLIC SERVICE CO. OF COLORADO		
Meter stations:		
Brush	3,500	3,600
East Denver	485,000	500,000
Log Lane	450	500
Inspiration Point	500	700
Air Base	3,000	4,500
Vineland	400	600
South Pueblo	45,000	50,000
Pueblo County Poor Farm	1,500	1,800
Highline taps:		
Hidden Village	400	500
Schauer	10	15
Hendrick	30	70
3T Cattle Co	125	150
Tom Cooper	55	60
Raton Natural Gas Co.:		
Trinidad Regulator Station	10,287	10,418
Western Slope Gas Co.:		
Greeley	60,000	70,000
Ault	77,000	85,000

[1] No change is proposed for delivery points not shown herein.

[FR Doc.75-16953 Filed 7-1-75;8:45 am]

[Docket No. CP75-362]

EL PASO NATURAL GAS CO.

Notice of Application

JUNE 25, 1975.

Take notice that on June 11, 1975, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP75-362 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon 669.4 miles of 30-inch and 26-inch high-pressure gas transmission mainline pipeline, seven existing compressor stations with a total of 66,150 compressor horsepower, and five right-of-way taps, all a part of Applicant's interstate system in the states of Arizona, New Mexico, and Texas, between Blythe, California, and Jal, New Mexico, all as more fully set forth in the appendix hereto and in the application on file with the Commission and open to public inspection.

The application indicates that Applicant's interstate transmission system's maximum peak day design sales capacity is approximately 3,999,000 Mcf of gas, including a mainline fuel requirement of 142,000 Mcf. Applicant states that the transmission system extends from major supply sources in the Permian Basin area of western Texas and southeastern New Mexico and in the San Juan Basin area of northwestern New Mexico and southwestern Colorado to serve markets throughout the southwestern United States. Applicant alleges that during the past several years it has been unable to acquire new supplies of gas capable of offsetting the declining deliverability of its existing sources. Applicant states that it is unable to meet the present requirements of its customers and is curtailing service pursuant to Commission orders issued in Docket No. RP72-6 and that the deliverability has deteriorated to such an extent, that even if successful acquisition of gas did occur, the existing level of system capacity would not be utilized. Applicant alleges that a comparison of the capacity of its transmission system and the estimated gas supply expected to be available indicate that by 1977 its system will have an idle capacity of 1.2 million Mcf daily.[1] The facilities proposed to be abandoned in the instant application are said to have a capacity of 683,000 Mcf daily.

Applicant states that five taps are located on the transmission pipeline which Applicant proposes to abandon and requests permission and approval to abandon the sale of gas for resale to right-of-way grantors made by means of such taps. Applicant intends to achieve mutually satisfactory alternative agreements with the five right-of-way grantors whose gas service would be affected by this application. Such right-of-way services are presently provided by the distributor customers of Applicant as indicated under general tap provisions of the currently effective service agreements on file with the Commission Applicant states. Applicant further states that it would inform the Commission and all parties of the final disposition of the matter when negotiations have been concluded.

Applicant states that its program of continuing evaluation of its system facilities required to continue service to its customers indicates that retirement of unneeded facilities, including those proposed herein for abandonment, is necessary to continue service at the lowest obtainable cost and to apportion equitably cost between present and future customers. Applicant states that the abandonment of the idle facilities will benefit Applicant's gas customers by permitting such facilities to be eliminated from Applicant's jurisdictional rate base and by permitting the operational and maintenance expenses related to such facilities to be eliminated from Applicant's jurisdictional cost of service. Applicant states further that the benefit flowing to Applicant's gas customers from the abandonment and retirement of these pipeline facilities is therefore enhanced because their contemplated future use gives these facilities a fair market value, estimated at approximately $86 million, which will be utilized in determining the reduction of Applicant's rate base, and that their original cost when constructed for gas service was some $95 million.

The application states that, in connection with the means of disposition of its facilities to become idle, Applicant has explored with The Standard Oil Company (Ohio) (Sohio), an owner of substantial Alaskan North Slope oil, the possibility of converting facilities having idle capacity on Applicant's transmission system to use the transportation of Alaskan crude oil. As a result of these activities, the parties verified the technical and economic feasibility of converting and utilizing certain of Applicant's idle gas pipeline in the implementation and operation of a common carrier crude oil pipeline from the west coast to west Texas. On May 6, 1975, Applicant and Sohio executed a preliminary agreement (Interim Agreement) respecting the conversion to crude oil service of certain of the idle facilities, after their abandonment from gas service is approved by this Commission, in connection with the "West Coast-Mid Continent Liquid Hydrocarbon Project" (Crude Oil Project).[2] It is alleged that issuance of the abandonment authorization requested would enable Applicant to terminate use of such facilities in gas service by April 1977 and permit conversion of such facilities for use in the Crude Oil Project by late 1977 or early 1978.

The application indicates that the transfer of the proposed facilities to be abandoned would be listed at the alleged fair market value of $86,000,000 in the reduction of the rate base of Applicant and would be leased under a proposed interim agreement to an oil pipeline organization to be formed for that purpose at the rate of $11,300,000 per annum during the period commencing the first day of the initial term and ending when the proposed conversion of facilities is completed. After that time the

[1] A comparison of the capacity of Applicant's transmission system and the gas supply anticipated to be available for the three-year period beginning in 1977 is said to be as follows:

	Thousand cubic feet (peak day)		
	December 1977	January 1978	January 1979
Transmission design capacity	3,999,000	3,999,000	3,999,000
Supply	2,797,000	2,804,000	2,597,000
Idle capacity	1,202,000	1,195,000	1,402,000

[2] The Crude Oil Project contemplates the use of both new and existing facilities to initially transport up to 500,000 barrels per day of Alaskan crude oil, offloaded in California. 1,000,000 barrels per day. These facilities would comprise a portion of a crude oil pipeline system extending approximately 1,000 miles from the west coast of California to terminal storage facilities near Midland, Texas, and to points of connection with existing liquid pipelines in that area.

payment would be $17,000,000 per annum for the duration of the 20-year lease.[3]

The application states that abandonment of the idle facilities described would benefit Applicant's gas customers by permitting such facilities to be eliminated from its jurisdictional rate base and by permitting the operational and maintenance expenses related to such facilities to be eliminated from its jurisdiction cost of service. The benefit flowing to Applicant's gas customers from the abandonment and retirement of the pipeline facilities is said to be enhanced because use in the Crude Oil Project gives these facilities a fair market value, estimated at $86 million, which would be utilized in determining the reduction of Applicant's rate base.

Applicant further states that utilization of these idle gas facilities as part of the proposed Crude Oil Project will also serve a broader, national interest in that they will contribute materially to a new crude oil pipeline system to move North Slope oil to interior lower 48 markets from the west coast of the United States.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 18, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

[3] Applicant alleges that the terms of the lease agreement with the oil pipeline organization would include the following terms.

1. The initial term of the proposed lease would be for 20 years commencing with the date that all permits, authorizations and approvals required for the proposed abandonments of natural gas service through Applicant's facilities have been issued to and accepted by Applicant and such service has been discontinued. Applicant would not be obligated to accept such permits, authorizations and approvals if they contain conditions having a materially adverse effect on the financial benefits to Applicant under the lease, but upon acceptance, the parties to the lease would execute a written confirmation of such commencement date.

2. The oil pipeline organization would pay to Applicant during the initial term of the lease the rent rate of:

a. $11,300,000 per annum during the period commencing with the first day of the initial term of the lease and ending with the date that the facilities are capable of transporting liquid hydrocarbons at the rate of 500,000 barrels per day through the project,

b. $17,000,000 per annum thereafter for the remainder of the 20 years of the initial term, however, if the $17,000,000 per annum rate has not commenced within 18 months of the commencement of the initial term of the lease, then the initial term of the lease would be extended for an equal period of time to that elapsed until the rate is paid after the 18-month period.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

APPENDIX

A. *Mainline Pipeline.* 1. Approximately 47.2 miles of 30" O.D. x 0.324", 0.335" and 0.375" w.t. pipeline, with appurtenances, commencing at Applicant's Jal No. 1 Plant in the NE/4 of Section 7, Township 26 South, Range 37 East, Lea County, New Mexico, and terminating at Applicant's Pecos Compressor Station in the NE/4 of Section 7, Township 26 South, Range 29 East, Eddy County, New Mexico.

2. Approximately 57.1 miles of 30" O.D. x 0.324", 0.335" and 0.375" w.t. pipelines and approximately 2.1 miles of 26" O.D. x 0.281", 0.291" and 0.303" w.t. pipelines, with appurtenances, commencing at Applicant's Pecos Compressor Station and terminating at Applicant's Guadalupe Compressor Station in the SE/4 of Section 25, PSL Block 120, and N/2 of Section 5, PSL Block 119, Culberson County, Texas.

3. Approximately 33.1 miles of 30" O.D. x 0.335", 0.375" and 0.500" w.t. pipelines, with appurtenances, commencing at Applicant's Guadalupe Compressor Station and terminating at Applicant's Cornudas Compressor Station in the SW/4 of Section 17, University Lands, Block J, Hudspeth County, Texas.

4. Approximately 59.8 miles of 30" O.D. x 0.375", 0.500" and 0.562" w.t. pipelines, with appurtenances, commencing at Applicant's Cornudas Compressor Station and terminating at Applicant's El Paso Compressor Station in the NE/4 of Section 18, Block 80, Township 1 T&P RR Co. Survey, El Paso County, Texas.

5. Approximately 63.2 miles of 30" O.D. x 0.375", 0.450" and 0.500" w.t. pipelines, with appurtenances, commencing at Applicant's El Paso Compressor Station and terminating at Applicant's Florida Station in the SE/4 of Section 14, Township 24 South, Range 6 West, Luna County, New Mexico.

6. Approximately 69.8 miles of 30" O.D. x 0.375", 0.450" and 0.500" w.t. pipelines, with appurtenances, commencing at Applicant's Florida Compressor Station and terminating at Applicant's Lordsburg Compressor Station in the S/2 of Section 8, Township 23 South, Range 17 West, Hidalgo County, New Mexico.

7. Approximately 218.3 miles of 30" O.D. x 0.375", 0.450" and 0.500" w.t. pipelines, with appurtenances, commencing at Applicant's Lordsburg Compressor Station and terminating at Applicant's Casa Grande Compressor Station in the SW/4 of Section 5, Township 6 South, Range 3 East, Pinal County, Arizona.

8. Approximately 93.1 miles of 30" O.D. x 0.375", 0.450" and 0.500" w.t. pipelines, with appurtenances, commencing at Applicant's Casa Grande Compressor Station and terminating at Applicant's Wenden Compressor Station in Sections 1 and 2, Township 2 North, Range 12 West, Yuma County, Arizona.

9. Approximately 25.7 miles of 30" O.D. x 0.375" w.t. pipeline, with appurtenances, commencing at milepost 704.5, west of Applicant's Wenden Compressor Station, in the NE/4 of Section 17, Township 2 North, Range 17 West, Yuma County, Arizona, and terminating at Valve No. 87½ in the NE/4 of Section 8, Township 3 North, Range 21 West, Yuma County, Arizona.

B. *Mainline Compression.* 1. The Cornudas "B" Compressor Unit, consisting of a 9,100 horsepower gas turbing-driven centrifugal compressor, with appurtenances, located in the SW/4 of Section 17, University Lands, Township 3 South, Block J., Hudspeth County, Texas.

2. The El Paso "C" Compressor Unit, consisting of a 9,100 horsepower gas turbine-driven centrifugal compressor, with appurtenances, located in NE/4, Survey 18, Block 80, Township 1, T&P RR Co. Survey, El Paso County, Texas.

3. The Florida "B" Compressor Unit, consisting of a 9,300 horsepower gas turbine-driven centrifugal compressor, with appurtenances, located in the SE/4 of Section 14, Township 24 South, Range 6 West, Luna County, New Mexico.

4. The Lordsburg "B" Compressor Unit, consisting of a 9,100 horsepower gas turbine-driven centrifugal compressor, with appurtenances, located in the S/2 of Section 8, Township 23 South, Range 17 West, Hidalgo County, New Mexico.

5. Bowie Compressor Station, comprised of a 11,350 horsepower gas turbine-driven centrifugal compressor unit, with appurtenances, located in Sections 9 and 10, Township 13 South, Range 26 East, Cochise County, Arizona.

6. Oracle Compressor Station, comprised of a 12,000 horsepower gas turbine-driven centrifugal compressor unit, with appurtenances, located in Section 30, Township 9 South, Range 16 East, Pinal County, Arizona.

7. The Casa Grande "B" Compressor Unit, consisting of 6,200 horsepower gas turbine-driven centrifugal compressor, with appurtenances, located in the SW/4 of Section 5, Township 6 South, Range 3 East, Pinal County, Arizona.

Right-of-Way Grantor Taps. 1. Vincent Kannally Tap, a 2" tap and valve assembly, with appurtenances, located at milepost 475.6 on Applicant's 30" O.D. California mainline in the NE/4, NW/4 of Section 32, Township 9 South, Range 16 East, Pinal County, Arizona. Service provided through a distributor customer of Applicant, Southwest Gas Corporation.

2. J. E. Browning Tap, a 1" tap and valve assembly, with appurtenances, located at milepost 439.0 on Applicant's 30" O.D. California mainline in the NE/4, SE/4 of Section 31, Township 12 South, Range 21 East. Cochise County, Arizona. Service provided through a distributor customer of Applicant, Arizona Public Service Company.

3. F. T. Gunterman Tap, a 2" tap and valve assembly, with appurtenances, located at milepost 431.1 on Applicant's O.D. California mainline in the NW/4 of Section 16, Township 13 North, Range 22 East, Cochise County, Arizona. Service provided through a distributor customer of Applicant, Arizona Public Service Company.

4. Hot Wells Cattle Company Tap, a 1" tap and valve assembly, with appurtenances, located at milepost 193.5 on Applicant's 30" O.D. California mainline in Section 28, Block 79, El Paso County, Texas. Service provided through a distributor customer of Applicant, Southern Union Gas Company.

5. Rodney Kleck Tap, a 2" tap and valve assembly, with appurtenances, located at milepost 525.0 on Applicant's 30" O.D. California mainline in the SE/4 of Section 10, Township 6 North, Range 8 East, Pinal County, Arizona. Service provided through a distributor customer of Applicant, Southwest Gas Corporation.

Applicant's Proposed Accounting Entries:

PROPOSED SALE OF FACILITIES FOR THE CRUDE OIL PROJECT

Proposed accounting entries to record the sale of approximately 33.10 miles of 30" First California Loopline, and approximately 104.30 miles of 30" from Second California Loopline and approximately 529.90 miles of 30" from Waha-Ehrenberg Line.

(1)	Original cost of facilities to be sold:	
	365.1 Land and land rights	$269,156
	365.2 Rights-of-way	665,294
	367 Mains	93,897,767
	Total original cost of facilities to be sold	94,832,217
(2)	Fair market value of facilities	86,000,000
(3)	Taxes payable on gain realized due to sale of facilities:	
	Fair market value	86,000,000
	Federal income tax basis	48,933,839
	Taxable gain	37,066,161
	Tax at 50% on gain realized	18,533,080
	Less deferred income tax attributable to property to be sold	2,669,750
	Additional provision for income taxes payable	15,863,330
(4)	Proposed accounting entries:	
	(a) Dr. 102—Gas plant purchased or sold	94,832,217
	Cr. 101—Gas plant in service [1]	94,832,217
	(b) Dr. 108—Accumulated provision for depreciation of gas utility plant	24,695,547
	Cr. 102—Gas plant purchased or sold [2]	24,695,547
Original cost		94,832,217
Less:		
	Fair Market Value	86,000,000
	Additional income taxes payable	15,863,330
	Net realized	70,136,670
Accumulated provision for depreciation related to facilities to be sold		24,695,547

[1] To transfer original cost of facilities to be sold.

[2] To record amounts applicable to accumulated provision for depreciation related to facilities to be sold, i.e., original cost minus net proceeds.

[FR Doc.75-17285 Filed 7-1-75;8:45 am]

[Docket Nos. CI74-537 and CI74-538;

Opinion No. 735]

MARATHON OIL CO. AND PHILLIPS PETROLEUM CO.

Opinion and Order Affirming in Part and Reversing in Part the Initial Decision Resolving Phase I

PROCEDURAL HISTORY

JUNE 23, 1975.

On March 26, 1974, Marathon Oil Company (Marathon) filed in Docket No. CI74-537 a conditional application pursuant to Section 7 of the Natural Gas Act requesting authorization to sell liquid natural gas (LNG) from Alaska to Northwest Natural Gas Company (Northwest), a distribution company operating in the State of Oregon. Marathon concurrently and in the alternative filed a petition for either a declaratory order disclaiming Commission jurisdiction over this proposed LNG sale or an order waiving all requirements of the Regulations under the Act with respect to such sale. On March 28, 1974, Phillips Petroleum Company (Phillips) filed in Docket No. CI74-538 a similar and related application proposing the sale of its Alaskas LNG to Northwest.

Following an April 18, 1974, notice of these filings and numerous resulting petitions for intervention, the Commission on June 21, 1974, issued an order granting intervention, consolidating the two dockets, and scheduling hearing for the determination of several enumerated jurisdictional issues.[1] Then on August 9, 1974, the Commission partially granted rehearing to the extent that it phased the proceeding: Phase I would only address the jurisdictional issues, with Phase II, addressing the substantive issues, to be convened by subsequent Commission order. Phillips and Marathon were ordered to present direct evidence as to Phase I, subject to cross examination.

The Phase I hearing was held on September 16 and 17, 1974, and Administrative Law Judge Walter Southworth issued an initial decision in this proceeding on January 15, 1975, in which he made the following findings (Initial Decision at 38-39):

(1) The wellhead price of the gas produced by applicants for liquefaction and sale will not, as such, be subject to Commission regulation by reason of the transaction, since no wellhead sale will take place and no wellhead price is proposed or necessary to be established in connection with the transaction;

(2) The transportation and liquefaction of the gas within Alaska, and the facilities required for such transportation and liquefaction will be exempt from the Commission's certification jurisdiction and requirements as activities constituting the production or gathering of natural gas or as facilities used for such purposes;

(3) The sale of LNG to Northwest Natural in Alaska pursuant to the transaction will constitute the sale of natural gas in interstate commerce for resale, subject to the jurisdiction of the Commission, and the certification of the said sale and of facilities required to effect the said sale is required; but the aforesaid status of applicants as "independent producers" will not be affected thereby;

(4) The transportation of LNG by ocean tanker will not be jurisdictional;

(5) By reason of its existing exemption from the provisions of the Act pursuant to section 1(c) thereof, which exemption will not be affected by the transaction, Northwest Natural will not become an interstate pipeline company subject to the jurisdiction of the Commission as a natural-gas company, as a result of the transaction; and

(6) In view of the preceding paragraph (5), facilities used by Northwest Natural for the unloading, storage, and regasification of LNG in Oregon in connection with the transaction will not be subject to the jurisdiction of the Commission.

Briefs on exceptions were filed by Commission Staff, the Public Service Commission of New York State (New York), the Public Utilities Commission of the State of California (California) and Southern California Gas Company and Pacific Alaska LNG Company (So Cal and PacAlaska). Briefs opposing these exceptions were filed by Phillips,

[1] Should a wellhead gas price be set? Are the transportation and liquefaction of the gas in Alaska, along with the related facilities, subject to Commission certificate jurisdiction? Is the sale of LNG to Northwest in Alaska a sale for resale in interstate commerce, subject to Commission jurisdiction? Whether the LNG transportation to Oregon by ocean tanker is jurisdictional? Whether the proposed sale will make Northwest a jurisdictional interstate pipeline? Whether Northwest's facilities in Oregon for unloading, storage and regasification of the LNG are jurisdictional?

Marathon, Northwest, Brooklyn Union Gas Company (Brooklyn Union), Public Utility Commissioner of Oregon (Oregon) and El Paso Natural Gas Company (El Paso).

FACTUAL BACKGROUND

The proposed sale of LNG from Marathon to Northwest results from a January 14, 1974, agreement. This Marathon LNG will be liquefied from natural gas to be produced from Marathon's interest in natural gas reserves located in the Kenai Field, Alaska. The natural gas will be gathered and transported through existing line to an existing liquefaction plant at Nikiski, Alaska. The proposed sale of LNG from Phillips to Northwest results from a similar January 10, 1974, agreement. The Phillips' LNG will be liquefied from natural gas to be produced from Phillips' North Cook Inlet Field, Alaska and gathered and transported to the same Nikiski LNG plant through existing lines.

The Nikiski liquefaction plant is supplied by two separate lines which are joined at the plant before processing begins. Marathon's 18.5 million Mcf per year (to be increased annually by 3.3 to 5.4 million Mcf) will travel 18 miles from the central point of the Kenai Field in which it has a working interest to the LNG plant through a 20 inch line which is jointly and equally owned by Marathon and Union Oil Company of California (Union) and operated by Union. This line continues beyond the plant, connecting with another pipeline and allowing Union and Marathon to deliver 10 million Mcf per year to the Swanson River oil field under a rental agreement. Union also uses this line to supply 20 million Mcf per year to a direct industrial customer between the LNG plant and the field. Marathon also uses the line to deliver small volumes to the City of Kenai and to Alaska Pipe Line Company for resale.

Phillip's gas must travel 45 miles from a central platform of its North Cook Inlet Field to the LNG plant, first through two 10 inch lines from a central platform to shore and thereafter through a 16 inch line. The Phillips Gas Supply Corporation, a subsidiary owned by Phillips (49 percent) and Phillips' retirement plan (51 percent), owns these lines and leases them to Phillips, which operates them and pays the rent which only covers the debt obligation for the facilities. Phillips has interests in leases covering other sections of the North Cook Inlet which might greatly increase the gas traveling through the 16 inch line to the LNG plant. Except for the through the 16 inch line to the LNG plant. Except for the delivery of 1700 Mcf per day to the Tesoro Alaskan Refining Company off the 16 inch line just upstream from the plant, Phillips will deliver all gas from the North Cook Inlet Unit through this line for the LNG plant.

The gas from both the Cook Inlet and Kenai fields is of pipeline quality after passing through dehydrators at the fields. No compression is presently required.

The LNG plant is owned by the Kenai LNG Corporation, which in turn is owned by Marathon (30 percent), Phillips (49 percent), and First National City Bank of New York as trustee for Phillips' retirement income plan (21 percent). The plant is leased to Marathon and Phillips with Phillips operating it, and all plant costs are shared by Marathon (30 percent) and Phillips (70 percent). The plant was originally constructed for and is still used for the sale of LNG to Japanese purchasers.[2] Minor modifications of the plant are scheduled to increase its capacity by 8 percent. A cryogenic process is employed in the plant to produce the LNG: After having any water or other undesirable components, e.g. CO_2, removed, the gas is cooled by the use of propane, ethylene and methane refrigerants to about minus 255°F, flowed to a flash tank and then stored at atmospheric pressure. The LNG can then be piped directly from the storage tanks to the cryogenic ocean tankers at an adjacent docking facility.

Northwest plans to acquire a new 29,000 cubic meter LNG capacity cryogenic tanker, to be owned by another firm and chartered to Northwest or possibly owned and operated by Northwest itself or through a subsidiary: In the interim, however, Northwest proposes to charter a foreign-flag tanker. In either event the tanker will be in international waters for most of the Alaska to Oregon voyage.

The cryogenic tanker will unload the LNG at Northwest's existing facilities near Portland, Oregon,[3] although Northwest will construct a permanent facility near Newport, Oregon for LNG receiving, storage and vaporization.

Pursuant to the two contracts Marathon and Phillips will in the aggregate sell to Northwest between 10.95 and 18.25 trillion Btu per year (30,000 to 50,000 Mcf per day), the exact amount between this minimum and maximum to be the maximum volume available after Marathon and Phillips first satisfy their LNG export commitments to Japan, supra note 2. Furthermore, the contracts continue in effect until June 1, 1984. In addition, Marathon's 30 percent of the aggregate deliveries and Phillips' 70 percent are to be made concurrently and are to be F.O.B. the cryogenic tanker which is to be arranged by Northwest, and the contract point of delivery is at the connection of the tanker's loading pipe and that of the plant, with risk of loss for and title to the LNG passing from seller to buyer at that point.

[2] This exportation was initially authorized in 1967 (37 FPC 777) and extends from 1969 to 1984. About 50.5 trillion Btu per year are presently being exported by Northern and Phillips at a price of 99.99¢ per million Btu.

[3] This liquefaction, storage and regasification facility has been used by Northwest for LNG peaking, using valley gas from its regular suppliers. The plant can be modified at minimal expense to receive LNG deliveries by ocean tankers.

DISCUSSION

The Administrative Law Judge resolved the six jurisdictional issues raised in the Commission's June 21, 1974, order, no other jurisdictional issues having been raised.

(1) Jurisdiction over Proposed LNG Sale and Transportation.

The Administrative Law Judge found that LNG sales by Marathon and Phillips to Northwest are jurisdictional as being a sale for resale of natural gas in interstate commerce within the meaning of section 1(b) of the Act. He also found that, except for the exemption of Marathon's and Phillips' field to LNG plant lines, the LNG plant, the ocean tanker and Northwest LNG facilities in Oregon, the transportation of the gas from wellhead to consumer is jurisdictional under section 1(b). In support of these findings he first of all noted that LNG is "natural gas" within section 2(5) of the Act and is therefore subject to Commission jurisdiction over sales and transportation,[4] and he found that such case authority, involving importation of LNG, applies *a fortiori* to LNG brought into one state from another state in light of the Commission's holding that importation of LNG is within interstate commerce under Section 2(7) of the Act.[5] He saw interstate commerce starting at the Alaskan wellhead, with the interstate sale being F.O.B. the tanker: The non-jurisdictional ocean tanker transportation was held not to sever the interstate commerce. He concluded that once, as here, jurisdiction is established, the Commission cannot disclaim or waive that jurisdiction, as Marathon and Phillips had alternatively requested. No exceptions were taken to this portion of the initial decision.

We affirm and adopt this finding of jurisdiction over the proposed LNG sale and transportation for the reasons advanced in the initial decision.

(2) Wellhead Price.

The Administrative Law Judge found that, despite Commission jurisdiction over the price of gas sold at the wellhead in interstate commerce for resale,[6] there is no need to set a just and reasonable wellhead price because no wellhead sale is contemplated. He noted that neither the national rate nor an area rate applies to Alaskan gas, and concluded that wellhead costs could be considered as one of many elements in determining the justness and reasonableness of rates involved with the LNG sale at the tanker.

While California essentially concurs with this finding, it stresses the necessity of Commission consideration of Phillips' and Marathon's production, gathering, transportation, liquefaction, storage and

[4] *Distrigas Corporation* v. *F.P.C.*, 495 F.2d 1057 (D.C. Cir. 1974); *Distrigas Corporation*, Opinion No. 613, 47 FPC 752, 759 (1972); and *Phillips Petroleum Company* and *Marathon Oil Company*, Docket Nos. CI67-1226 and 1227, 37 FPC 777 (1967).

[5] *Distrigas Corporation*, Docket Nos. CP73-78 et al., order denying rehearing June 20, 1973, 49 FPC 1400.

loading costs when it determines the justness and reasonableness of the LNG sale price F.O.B. the cryogenic tanker.

Marathon supports this portion of the initial decision and argues that California's contention is premature and that such elements should instead be considered in Phase II.

We affirm and adopt this finding that no wellhead price need be established for this transaction. Since there are no wellhead sales, no wellhead price should be set. Commission consideration of wellhead costs will be necessary however, in Phase II for a determination of the justness and reasonableness of the dockside LNG sale at Nikiski.

(3) Jurisdiction over Transportation and Liquefaction within Alaska.

The Administrative Law Judge held that Marathon and Phillips' transportation and liquefaction activities were those of an independent producer, not subject to pipeline regulation, and that the facilities related thereto fell within the production and gathering exemption of section 1(b) of the Act. He found certification required solely for the tanker loading facilities at the Kenai plant. To arrive at this result, he initially presented legal authority[7] supporting the following methodology: Each case must be determined upon its particular circumstances, and, where the company has not previously been classified as a pipeline, its "primary function" is determinative, that is, whether it is predominantly engaged in the transportation of gas in interstate commerce or in some other activity, such as production and gathering. He noted that, while a company had retained its independent producer status despite Commission certification of its line from field to processing plant as jurisdictional, Northern Natural, supra note 7, the Commission has more recently interpreted Brooks Gas, supra note 7, to view, as within the gathering exemption and therefore without pipeline jurisdiction, an independent producer's "behind-the-plant" facilities where the gas is sold for resale at the tail-gate of the producer's processing plant.[8]

Against this background the Administrative Law Judge concluded that the liquefaction plant is analogous to the traditional processing plant (gas is treated to make it of "pipeline quality" suitable for sale). In support thereof he argued that, although the gas in question is of "pipeline quality" when it leaves the fields as a result of separators and dehydrators in these fields, it is not suitable for interstate or foreign commerce until it is liquefied, capable of cryogenic tanker transportation: Due to "market and geography" (no pipeline to another state exists or could be economically constructed) the gas must be liquefied before it is fully processed for purposes of both interstate commerce and also the contracts of sale. By treating the LNG plant as a traditional processing plant he then concluded that Marathon's (18 miles of 20 inch line) and Phillips' (45 miles of 10 and 16 inch line) field-to-LNG plant lines are "behind-the-plant" facilities, therefore nonjurisdictional as being incidental to production and gathering. The several direct industrial and resale sales off these lines were found not to alter this result.

Staff, New York, California and SoCal and PacAlaska except to this holding. To begin with, Staff argues that the LNG plant cannot be considered a "processing plant," which is nonjurisdictional, for, while processing plants remove water vapor, carbon dioxide, sand, liquid hydrocarbons, condensates and other impurities from casinghead gas, liquefaction takes nothing from the gas, which here is already of "pipeline quality:" It merely converts the gas to a form permitting non-pipeline transportation. Moreover, Commission jurisdiction over LNG peak shaving facilities is raised as a bar to considering the Kenai plant nonjurisdictional. In addition the rationale in the initial decision that the gas is not suitable for interstate commerce until it has passed through the LNG plant is asserted by Staff and California to support a finding of jurisdiction for the plant is an integral part of the interstate movement of natural gas. Staff then concludes that, if the LNG plant is not a "processing plant," the lines from the fields to the plant must be jurisdictional for they are not "behind-the-plant." Record references are noted to show that the processing is accomplished before the gas leaves the central point of the field, at which point it is of "pipeline quality." Staff would reinforce its argument by focusing on the intrastate sales off these lines, the high pressure involved, and the lines operating mainly outside the production areas.

California initially asserts that production and gathering terminate at the central points of the several fields and that the lines beyond these points fall out of the Section 1(b) gathering exemption.[9] It enumerated various supporting facts in the record,[10] and it argues that the Commission has not abandoned the "central-point-in-the-field" test of Barnes, supra note 9, as it attempts to distinguish the cases relied upon in the initial decision for the "primary function" test, supra notes 7 and 8. Concerning the LNG plant, California contends that the traditional jurisdictional "processing plant," which is an incident of production and gathering and which also makes the gas salable and/or extracts other products from the gas, has not been viewed by the Commission as distinguishing between gas salable for interstate as compared to intrastate commerce: If it is salable in any commerce, processing is complete. SoCal and PacAlaska concur in this, reasoning that liquefaction is only necessary to render the gas "transportable", not "salable", and accordingly they analogize the LNG plant to a jurisdictional compressor station, also needed for transportation.

New York argues that the case authority, supra notes 7 and 8, supporting the section 1(b) exemption of behind-the-plant facilities is distinguishable from this case because the processing plant tail-gate sales traditionally involved minor facilities which had little effect upon the price of such tail-gate gas. In the instant LNG context, however, the behind the LNG plant facilities could have substantial cost impact. It contends that, since the basis for determining the just and reasonable price of Alaskan LNG has not yet been determined, now is not the time to find such facilities nonjurisdictional. California and SoCal and PacAlaska see Phillips' and Marathon's independent producer status preserved if the facilities, now determined to be jurisdictional, were owned by a separate corporation.

Marathon and Phillips oppose these exceptions. They initially assert that the initial decision will not result in a "regulatory gap" because the LNG sale for resale at the tailgate of the LNG plant is subject to Section 7 certification in Phase II of this proceeding: Traditional indirect producer regulation of tail-gate sales, instead of the direct public utility pipeline regulation, is allegedly sufficient. They also reiterate the case authority supporting use of the "primary function" test, supra notes 7 and 8, their function in Alaska being production and gathering, not transmission, and they depreciate the "mechanistic" "central-point-in-the-field" test espoused by California by arguing that Barnes, supra note 9, has been abandoned by the Commission. In this regard they furthemore support not only the use of the "behind-the-plant" methodology of the initial decision and inclusion of their field-to-plant lines within their gathering exemption but also the treatment of the LNG plant as a traditional non-jurisdictional processing plant, emphasizing the essential function of liquefication in making the gas salable in interstate commerce.[11] Moreover, they would distinguish

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[6] *Phillips Petroleum Co. v. State of Wisconsin*, 347 U.S. 672, 682 (1954).

[7] Southern Union Gathering Company, Docket No. CP 71–26, 47 FPC 1177, 1188 (1972); Northern Natural Gas Pipeline Company, Opinion No. 538, 39 FPC 362, 368 (1968); Brooks Gas Corporation v. F.P.C., 383 F.2d 503, 509 (D.C. Cir. 1967); and Ben Bolt Gathering Company, 26 FPC 825, 827 (1961), aff'd, 323 F.2d 610, 611 (5th Cir. 1963).

[8] Phillips Petroleum Company, Docket No. CI73–73, letter order issued July 17, 1973 (35 mile line from field to compressor system near processing plant found by the Commission to be outside its section 7(c) jurisdiction).

[9] Barnes Transportation Company, 18 FPC 369, 372 (1957).

[10] (1) The gas is of "pipeline quality" when it leaves the fields. (2) The gathering lines all converge at a central platform. (3) From these central platforms the lines in question run to the LNG plant. (4) The field-to-plant lines are at transmission pressures. (5) The distances (18 and 45 miles) relate to transmission, not gathering. (6) Marathon and Phillips make sales of the lines before the plant.

[11] Phillips also makes the factual argument that the LNG plant also performs traditional processing, such as removal of water vapor, carbon dioxide and liquid hydrocarbons. It also states that the "pipeline quality" of the gas, as well as the minor intrastate sales of the lines, are irrelevant to a determination of jurisdiction.

this LNG plant from those jurisdictional LNG peaking facilities mentioned by Staff, noting that the Commission treats LNG projects on a case-by-case basis, refusing to view all such projects as legally indistinguishable: [12] This ad hoc approach is also cited in their argument against the precedential nature of this case for other Alaskan LNG projects. In addition, Phillips also seeks support for the nonjurisdictional status of the LNG plant by referring to the Commission's original authorization of LNG exportation from this plant, supra, in which the plant was not deemed to be jurisdictional. Finally, Phillips states that, if it would lose its independent producer status because of this project, it would terminate its participation therein, although it does assert that the Commission need not alter its producer status even if certain facilities are found to require Section 7 certification. It does oppose, however, the suggestion that subsidiaries be formed to conduct all jurisdictional activities.

We find that the Kenai LNG plant and the 18 and 45 mile long lines leading back to the respective fields are within Section 7 certificate jurisdiction; therefore, we reverse the finding of no jurisdiction in the initial decision. As a preliminary matter we reiterate our prior position, supra note 12, that jurisdictional determination concerning LNG projects are made on a case-by-case basis. Moreover, we consider the applicants' "primary function," which is predominantly production and gathering, and therefore we would extend the Section 1(b) production and gathering exemption to their facilities "behind-the-processing plant".[13] We can, however, accept neither the finding that the Kenai LNG plant is such a processing plant nor the correlative finding that the two plant-to-field lines are also exempt. The gas from the North Cooke Inlet and Kenai fields has already been processed and is of "pipeline quality" when it leaves the respective central points, as is indicated by the intrastate direct and resale sales off these two lines before they reach the LNG plant. Liquefaction itself is not traditional "processing". It changes the form of the gas to permit transportation, but it does not make it salable. The analogy to a jurisdictional compressor station is apt. The further dehydration and extraction accomplished at the LNG plant is solely incidental to the liquefaction process and therefore not controlling here. The lines behind the LNG plant do not have a gathering function, once stripped of the "behind-the-plant" exemption. They are an integral part of the interstate flow of this gas.

The requirement of Section 7 certificate applications for the LNG plant and the plant-to-field lines will not, however, cause Phillips and Marathon to lose their independent producer status.[14] Their other activities and facilities in Alaska and the lower 48 states will remain under indirect producer regulation. Furthermore, these applicants can preserve their producer status by bifurcating the project between jurisdictional and nonjurisdictional components, a subsidiary corporation engaging in the former part. Of course such an arrangement would require certification of the wellhead sale between the applicants and their subsidiaries purchasing the gas in the fields.

(4) Jurisdiction over the LNG Ocean Tanker.

The Administrative Law Judge then proceeded to hold that LNG transportation from Nikiski, Alaska to Oregon by ocean tanker owned by Northwest or any other firm, is nonjurisdictional. In support thereof he first of all noted that the Commission had previously determined that "it does not have jurisdiction over the transportation of LNG by means other than pipeline" because the Act was addressed to "regulation of pipelines in order to eliminate demonstrated abuses rather than to the regulation of all modes of transportation in interstate commerce".[15] He also stated that the Act was only directed at "stationary facilities," and he rejected any attempted extension of Congressional intent in light of the recent development of gas liquefaction and its transportation by ocean tankers. As a second basis for finding no jurisdiction over cryogenic ocean tankers, he noted that interstate commerce, within the parlance of section 2(7) of the Act, is limited to "only insofar as such commerce takes place within the United States;" therefore, since the LNG tanker in question will travel predominantly through international waters, this transportation is nonjurisdictional. Finally, he rejected any suggestion that the portion of the voyage within U.S. coastal waters should be treated as jurisdictional, finding such bifurcated treatment of the voyage to be impractical and erroneous.

California alone excepts to this holding. It initially requests Commission reconsideration of its order in R-377, supra note 15, in light of the lack of Commission control over the increased costs of LNG transportation to the consumer. Secondly, it argues that Congress never intended to limit jurisdiction under the Act to stationary facilities and that R-377 leaves a "regulatory gap." In particular California assails any statutory construction that would exclude cryogenic tankers from the Act solely because they did not exist in 1938: Just as LNG is "natural gas" within the meaning of section 2(5) of the Act, supra note 4, even though LNG was unknown in 1938, so too is transportation of LNG by ocean tankers "transportation" within the meaning of the Act. Moreover, it attacks another Commission holding that "transportation" only relates to pipelines [16] by noting that "pipeline" is only mentioned once in the Act, in section 7(h) (eminent domain power granted to certificate holders) and by arguing that other pertinent paragraphs of section 7 could equally apply to ocean tankers (section 7(a) "extend" and "physical connection," section 7(b) "abandon," and section 7(c) "construct"). Thirdly, California relies upon several canons of statutory construction.[17] Finally, California reasons that if, assuming arguendo, the ocean tanker transportation of LNG from Alaska to Oregon is not in interstate commerce, it must be in foreign commerce and therefore subject to section 3 jurisdiction as an import of LNG.

Marathon, El Paso and Northwest oppose this exception. The reading of and reliance on the order in R-377 and section 2(7) of the Act in the initial decision is supported. They reiterate that the Congressional intent was to only certificate pipelines. California's canons of construction are also attacked as inapplicable in the present context, and El Paso raises the canon of construction that the interpretation of a statute by it enforcing agency should be given deference, which in this case involves the Commission reading "transportation" to only encompass "pipelines." Finally, California's section 3 importation argument is contraverted by El Paso and Marathon for section 3 refers to exports to foreign countries or imports from foreign countries.

We affrm and adopt the finding that no section 7 certification application need be filed for the cryogenic ocean tanker and the transportation of this LNG from Alaska to Oregon. The Commission has already found that such a mode of transportation is nonjurisdictional, supra notes 15 and 16, and this finding is well supported by the legislative history of the Act (only pipeline abuses were intended to be cured by certification) and its language (section 7 is phrased in terms of "extend," physical connection," "abandon," and "construct," all of which relate to stationary, not movable, facilities). As a second independent justification for this finding, the ocean transportation of LNG through international waters is outside "interstate commerce" as defined in section 2(7) and therefore nonjurisdictional. The portion of the voyage through U.S. coastal waters is merely incidental to the transportation through internation waters. Finally, the contention that the LNG tanker transportation is jurisdictional as an import

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[12] Belco Petroleum Company, Opinion No. 659, 49 FPC 1154, 1159 (1973).

[13] Phillips Petroleum Corporation, 10 FPC 246, 277 (1951) rev'd other grounds, 347 U.S. 672 (1954); Panhandle Eastern Pipe Line Company, et al., Opinion No. 617, 47 FPC 1088, 1092 (1972).

[14] Northern Natural Gas, supra note 7.

[15] Order Terminating Proposed Rulemaking Proceeding, Docket No. R-377, 49 FPC 1078, 1079 (1973).

[16] Distrigas Corporation, supra note 6.

[17] (a) There must be intent demonstrated to exclude specific subject matter if the statute is broad enough to include it. (b) The purpose and history of a statute must be considered if a mechanical interpretation is at odds with the statute. (c) An agency or court can read into a statute specifics not before the legislature at the time of enactment. (d) Regulatory statutes should be flexible enough to encompass changing technology.

under section 3 must be rejected for Alaska is not a foreign country.

(5) The Retention of Northwest's section 1(c) Exemption.

Northwest has been exempted from the provisions of the Act because its operations come within the ambit of section 1(c) ("Hinshaw" amendment), that is, its natural gas supply is "received * * * from another person within or at the boundary of a state," in this case Oregon. Although the Administrative Law Judge noted that the point of delivery for the instant LNG sale is, pursuant to the terms of the contract, Nikiski, Alaska, he still found that Northwest's section 1(c) exemption is not jeopardized by this sale, so long as the cryogenic tanker is owned and operated by a different corporation. In essence he distinguished "delivery" by Phillips and Marathon in Alaska to the tanker from "receipt" by Northwest of the LNG in Oregon, this latter occurrence constituting "receipt * * * from another person within or at the boundary of a state", even though delivery occurs outside the state. He supported this finding by concluding that termination of Northwest's section 1(c) exemption due to this sale would result in Commission duplication of Oregon regulation of Northwest's activities and facilities within that state, the very eventuality that section 1(c) was designed to avoid.[18]

Staff, New York, California and SoCal and PacAlaska except to this holding. They all argue that Northwest will receive the LNG in Alaska, not Oregon, because under the contract Nikiski is the point of delivery where Northwest takes title to and assumes the risk for the LNG. They stress the commercial realities of the transaction. In addition Staff and California attack the adequacy of the holding that, so long as Northwest does not own and operate the tanker, its exemption is preserved: This subsidiary—transportation caveat to the initial decision is argued not to meet the "from another person" requirement of section 1(c). New York and SoCal and PacAlaska, however, contend that Northwest can retain its "Hinshaw" exemption if a subsidiary is assigned Northwest's contract or purchases the LNG at Nikiski, transports it to Oregon, and then sells it to Northwest.

Northwest, Oregon, Brooklyn Union, Marathon and Phillips all oppose this exception, arguing the "receipt" within section 1(c) means "physical possession," not merely taking title to and assuming the risk for the LNG. They all support the initial decision in this regard and warn against regulatory duplication if Northwest's exemption is removed. Finally, Northwest would enhance the validity of a subsidiary transporting the LNG by reference to common law bailments (the subsidary tanker company, as bailee of the LNG from Alaska to Oregon, would have all the incidents of ownership except for legal title, and Northwest, as bailor, would have no right to retake possession while the bailment is in effect). Most importantly, however, Northwest agrees to form any corporate organization necessary to insure its continued Section 1(c) exemption, including a firm which would purchase the LNG in Alaska and sell it to Northwest in Oregon.

We find that under the presently advanced format Northwest's section 1(c) exemption will be abrogated by this proposed LNG sale; therefore, we reverse the finding of continued exemption in the initial decision. While the terms of private contracts cannot be allowed to frustrate the Act, the terms of these contracts are helpful in administering the Act for they indicate that delivery occurs in Alaska; therefore, Northwest is receiving gas outside Oregon, contrary to the section 1(c) exemption. The interpretation of "received" as referring solely to actual possession, not title, risk or delivery, is a misconstruction of section 1(c). This becomes apparent in light of the history of the "Hinshaw" amendment, which was a Congressional abrogation of the Supreme Court's determination that interstate transportation includes distribution of gas within one state received by the distributor from the interstate pipeline at the state line.[19] Northwest will "receive" the LNG in Alaska, even if a subsidiary or an unrelated firm transports it to Oregon, and the nonjurisdictional nature of the cryogenic tanker does not alter this result.

If, however, Northwest forms a subsidiary which will purchase the gas from Phillips and Marathon, transport it to Oregon, and there resell it to Northwest, it will not lose its section 1(c) exemption for then it will in fact receive the gas "from another person within or at the boundary" of Oregon. Northwest has agreed to this structure in its brief. Such a corporate entity, whether a subsidiary or bound to Northwest solely by contract, would have to apply for section 7 certification of its sale of LNG to Northwest, even though the tanker is nonjurisdictional.

(6) Jurisdiction over Northwest's Oregon LNG Facilities.

While the Administrative Law Judge noted that LNG unloading, storage and regasification facilities are normally jurisdictional,[20] Northwest's continued section 1(c) exemption was found to preclude section 7 jurisdiction in this case.

Staff and California except to this finding, arguing that, if Northwest loses its section 1(c) exemption, its LNG facilities become subject to Commission jurisdiction. California would, however, go even further and require section 7(c) certification of all of Northwest's nonlocal distribution facilities in Oregon for the regasified LNG will be commingled with its other gas supply from its interstate pipeline supplier.

Northwest opposes this exception. It first of all relies on the "local distribution" exemption of section 1(b) of the Act. Secondly, it relies upon its "Hinshaw" exemption to also cover its LNG facilities.

Since we have already found that Northwest will lose its Section 1(c) exemption, we also find that Northwest must apply for section 7(c) certification for its Oregon LNG facilities; therefore, we reverse the finding that these LNG facilities are nonjurisdictional. If Northwest is no longer exempt from the provisions of the Act, its LNG facilities, which would otherwise be jurisdictional, become jurisdictional. On the other hand, if Northwest reorganizes itself so as to retain its exemption, as noted above, its LNG facilities will not require certification. California's position that all nonlocal distribution facilities must be certificated is rejected in any event.

The Commission further finds:

(1) The wellhead price of gas produced by Phillips and Marathon for liquefaction and sale will not, as such, be subject to Commission regulation by reason of this transaction since no wellhead sale will take place and no wellhead price is proposed or necessary to be established in connection with the transaction.

(2) The sale of LNG to Northwest in Alaska pursuant to transaction will constitute the sale of natural gas in interstate commerce for resale, subject to the jurisdiction of the Commission, and the certification of said sale and of facilities required to effect it is required.

(3) The transportation and liquefaction of the gas within Alaska and the facilities required for such transportation and liquefaction are subject to the Commission's certification jurisdiction and requirements.

(4) The transportation of LNG by ocean tanker over the proposed route will not be jurisdictional.

(5) Under the presently proposed arrangement the LNG sale will abrogate Northwest's section 1(c) exemption from the provisions of the Act, and accordingly Northwest's LNG facilities in Oregon to be used in this transaction are subject to the jurisdiction of the Commission and require certification.

The Commission orders:

(A) The initial decision issued in Phase I of this proceeding on January 15, 1975, is affirmed in part and reversed in part, as is enumerated in the body of this order.

(B) Marathon and Phillips must in Phase II support application for certification of the Kenai LNG plant and the pipelines leading from this plant back to their respective gas fields.

(C) Northwest must in Phase II support application for certification of its Oregon LNG facilities to be employed in this sale.

(D) Marathon, Phillips and Northwest must in Phase II support application for certification of the sale of LNG to Northwest in Alaska.

(E) The Commission mandates found in Ordering Paragraphs (B) and (C) should be modified according to the body of this order if Marathon, Phillips and Northwest alter the present structure of

[18] In this regard he noted that Oregon has commenced regulation of the rates, service and facilities of Northwest within Oregon necessary for this LNG transition.

[19] FPC v. East Ohio Gas Co., 338 U.S. 464 (1950).

[20] Distrigas, supra note 5.

this transaction as discussed hereinabove.

(F) A public hearing in Phase II of this case shall be commenced on August 5, 1975 at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(G) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5d) shall preside at the hearing.

(H) Marathon, Phillips and Northwest shall file and serve their direct case on or before July 14, 1975.

(I) The Presiding Administrative Law Judge may establish a further hearing for rebuttal testimony and evidence if necessary.

By the Commission.[21]

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17286 Filed 7-1-75;8:45 am]

[Docket Nos. RP73-43; PGA75-5]

MID LOUISIANA GAS CO.

Proposed Change in Rates

JUNE 25, 1975.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on June 16, 1975, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Sixteenth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G-1, SG-1, I-1 and E-1; that the revised tariff sheet is proposed to be effective August 1, 1975, and that the filing is being made in accordance with Section 19 of Mid Louisiana's FPC Gas Tariff and in compliance with Commission Order Nos. 452 and 452-A; and that copies of the filing were served or interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 16, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17274 Filed 7-1-75;8:45 am]

[21] List of Appearances filed as part of original document.

[Docket No. E-9502]

MINNESOTA POWER & LIGHT CO.

Proposed Changes in Rates and Charges

JUNE 24, 1975.

Take notice that Minnesota Power & Light Company (MP&L) on June 18, 1975, tendered for filing proposed changes in its rates and charges to seventeen municipal customers, one privately-owned electric system customer and two rural electric cooperative customers, as embodied in MP&L's proposed Rate Schedule No. 92, applicable to its full requirements municipal and privately-owned electric system customers, and proposed Rate Schedule No. 93, applicable to its electric cooperative customers. In addition, MP&L has filed for an increase to 4.00 mills per kilowatthour in the transmission service rates applicable to its 3 transmission service customers. MP&L states that the proposed increase in transmission rates, or any subsequent proposed increases, cannot become effective as to two of its wheeling customers before June 18, 1979 due to notice requirements contained in their service agreements. According to the Company, the proposed changes would increase revenues from jurisdictional sales and service by $2,412,500 based on the twelve-month period ending July 18, 1975.

During 1974, MP&L states that it earned a rate of return of 7.23 percent from service to its full requirements municipal customers, 7.99 percent from its rural electric cooperative customers, 9.20 percent from its privately-owned electric system customer, and 5.87 percent from its wheeling customers. Based on the data presented in the Company's filing relative to the 1975 test period, it is expected that these rates of return will be 6.93 percent, 7.22 percent, 9.29 percent, and 5.48 percent, respectively, in 1975 in the absence of rate relief. The proposed rates are designed to enable MP&L to improve the rate of return earned from its service to these jurisdictional customers, which the Company believes is necessary if it is to attract the amounts of capital necessary to provide adequate service to these customers.

Copies of the applicable portions of the filing have been served upon their jurisdictional customers, MP&L states. Copies have also been mailed to the Minnesota Public Service Commission and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 8, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17275 Filed 7-1-75;8:45 am]

[Docket Nos. RP71-125 and RP74-96; PGA75-10]

NATURAL GAS PIPELINE CO. OF AMERICA

Filing of Revised Purchase Gas Cost Adjustment

JUNE 26, 1975.

Take notice that on June 18, 1975, Natural Gas Pipeline Company of America (Natural) tendered for filing Twenty-third Revised Sheet No. 5 to be effective June 1, 1975 to its FPC Gas Tariff, Third Revised Volume No. 1.

Natural states the purpose of the submittal is to file a revised tariff sheet to become effective June 1, 1975 reflecting increased costs other than those increased costs associated with that portion of small producer and emergency purchases in excess of the rate levels prescribed in Opinion No. 699-H in accordance with Ordering Paragraph D of the Commission's Order issued May 30, 1975 in this docket. Included in the filing are supporting schedules giving the details for the current unit adjustments to be effective June 1, 1975 and June 2, 1975. Natural states that the tariff sheet effective June 2, reflects the rates that were suspended by the Commission's May 30, 1975 order in this docket and were permitted to be effective June 2, 1975, subject to refund.

Natural also states the tariff sheets reflect the rate level for Rate Schedule MS-3 (formerly Rate Schedule S-3) that became effective March 1, 1975 by Commission Order issued June 2, 1975 at Docket No. CP72-279.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 16, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17276 Filed 7-1-75;8:45 am]

[Docket No. CP75-365]

NORTHERN NATURAL GAS CO.

Notice of Application

JUNE 25, 1975.

Take notice that on June 13, 1975, Northern Natural Gas Company, operat-

ing as and through its Peoples Natural Gas Division (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP75–365 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 660 compressor horsepower addition at its existing Dalhart Compressor Station, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant alleges that it was authorized by order of the Commission on April 15, 1974, to construct and operate a 600 horsepower compressor station on its Bivins-Clayton pipeline in Dallam County, Texas, and that as a result of operating experience it has been established that the authorized compressor facilities are insufficient to provide reliable and adequate service to customers. Applicant proposes to construct and operate a 660 compressor horsepower addition to the existing facilities to alleviate the problem of delivering the necessary volumes of gas. Applicant states that the estimated cost of the proposed facilities would be $162,100, and that the proposed facilities would be financed from cash on hand.

Applicant states that farming units that are served by the existing facilities have expanded their production acreage and that there is a deficient moisture profile, which has resulted in an increased demand for natural gas for irrigation purposes during the irrigation season.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75–17277 Filed 7–1–75;8:45 am]

[Docket Nos. RP73–48, PGA75–5]

NORTHERN NATURAL GAS CO.

Notice of Rate Change

JUNE 25, 1975.

Take notice that Northern Natural Gas Company on June 17, 1975, tendered for filing Ninth Revised Sheet No. 3a of its FPC Gas Tariff, Original Volume No. 4. The proposed change to become effective August 1, 1975 would increase the rate per Mcf to jurisdictional customers by 3.73¢ per Mcf. This change results from a PGA increase filed by Colorado Interstate to become effective August 1, 1975. Colorado Interstate is the pipeline supplier to Northern for sales made under Volume No. 4.

Copies of the filing were served upon the Gas Utility Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 21, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75–17278 Filed 7–1–75;8:45 am]

[Docket No. E–9007 and E–9054]

TAMPA ELECTRIC CO.

Notice of Extension of Time

JUNE 25, 1975.

In June 20, 1975, Tampa Electric Company filed a motion to extend their procedural dates fixed by order issued April 30, 1975, as most recently modified by notice issued June 5, 1975 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the date for filing direct testimony by the Company is extended to and including July 31, 1975. All other procedural dates remain as fixed by the above order.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75–17279 Filed 7–1–75;8:45 am]

[Docket Nos. CI75–746 and CI75–747]

TENNECO OIL CO.

Notice of Applications

JUNE 26, 1975.

Take notice that on June 16, 1975, Tenneco Oil Company (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CI75–746 and CI75–747 applications pursuant to Section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the sales for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), produced from East Cameron Block 281 and from Eugene Island Blocks 342 and 343, offshore Louisiana, at the national rate set forth in § 2.56a of the Commission's General Policy and Interpretations (18 CFR 2.56a), all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant requests in Docket No. CI75–746 authorization to sell and deliver to Tennessee an estimated 2.07 million Mcf of gas per month at Applicant's Block 281 "A" and "B" Platforms. Applicant states that although the contract between the parties dated June 13, 1975, calls for a price of $1.63 per Mcf of gas, Applicant is willing to make the sale at 52.5314 cents per Mcf at 15.025 psia (the national rate including all adjustments and tax reimbursement).

Applicant requests in Docket No. CI75–747 authorization to sell and deliver to Tennessee an estimated 1.233 million Mcf of gas per month at Applicant's existing platform in Block 342. Applicant explains that Tenneco Exploration, Ltd. (a partnership composed of Tenneco Offshore, Inc., a publicly-owned company in which Applicant does not own any interest, and Applicant) owns the gas to be produced from Eugene Island Blocks 342 and 343 and that Applicant will purchase such gas from Tenneco Exploration Ltd., and will resell the gas to Tennessee. Applicant states that although its contract with Tennessee dated June 12, 1975, calls for a price of $1.44 per Mcf of gas, Applicant is willing to make the sale at the national rate quoted above.

With respect to the proposed sales in both dockets herein, Applicant states that it has committed and will sell 75 percent of its reserves to Tennessee and will retain 25 percent for its own use after transportation onshore by Tennessee under arrangements to be made later.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 22, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties

to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, hearings will be held without further notice before the Commission on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17280 Filed 7-1-75;8:45 am]

[Docket No. CP75-366]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

JUNE 26, 1975.

Take notice that on June 13, 1975, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP75-366 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon partially the transportation service rendered to Gulf Oil Corporation (Gulf) all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has been transporting for Gulf up to 6,000 Mcf of gas per day on a high priority interruptible basis under the terms of a transportation agreement authorized by the order of January 24, 1963, issued in Docket No. CP63-35, as amended by August 21, 1969. Applicant further states that the primary term of the transportation agreement expired on February 1, 1975, and that Gulf insisted on a reduction in the maximum volume of gas to be transported from 6,000 Mcf per day to 1,000 Mcf per day. Applicant states that it transport the gas for Gulf from the outlet of the Claiborne Gasoline Plant, Claiborne Parish, Louisiana, and from the intersection of Louisiana State Highway No. 35 and Applicant's 20-inch pipeline in Acadia Parish, Louisiana, for redelivery to Gulf at the outlet of a meter station on Applicant's 26-inch pipeline near the City of Harrison, in Hamilton County, Ohio.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 22, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17281 Filed 7-1-75;8:45 am]

[Docket Nos. RP74-48 and RP75-3, AP75-2]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Tariff Filing

JUNE 25, 1975.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on June 16, 1975, tendered for filing seven revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.

Transco states that such filing is made in accordance with the provisions of Section 6 of Article III of its "Agreement as to Rates" in the above dockets to track advance payments for gas not previously reflected in rates of $15,442,642. The proposed effective date of the filing is August 1, 1975 subject to Commission approval of the Agreement.

Transco states that the revised tariff sheets included in the filing reflect an increase of 0.3¢ per Mcf in the commodity rate or delivery charge of the Company's CD, G, OG, E, PS, S-2, X-11, X-20, X-42, X-52 and X-56 rate schedules.

The Company states that copies of the filing have been mailed to each of the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 7, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17282 Filed 7-1-75;8:45 am]

[Docket No. CP75-354]

TRANSWESTERN PIPELINE CO.

Notice of Application

JUNE 26, 1975.

Take notice that on June 4, 1975, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP75-354 an application pursuant to sections 7 (b) and (c) of the Natural Gas Act, as implemented by § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission and approval of the abandonment, for a six-month period commencing July 1, 1975, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is enable Applicant to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the facilities would not be in excess of $1,500,000 nor would single project cost in excess of $500,000. Applicant states that the proposed facilities would be financed from funds available from company operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party

to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the grant of a certificate and permission and approval for the abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17283 Filed 7-1-75;8:45 am]

[Docket No. RP73-35 PGA75-3]

TRUNKLINE GAS CO.

Notice of Proposed Change in Tariff

JUNE 25, 1975.

Take notice that on June 13, 1975, Trunkline Gas Company (Trunkline) tendered for filing Thirteenth Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1. Trunkline submits that the filing is in accordance with the provisions of Section 18 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1, and reflects increases in the current cost of gas and recovery of amounts in the deferred purchased gas cost account. An effective date of August 1, 1975 is proposed.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 16, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.75-17284; Filed 7-1-75;8:45 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding the availability of information, notice is given that at its meeting on June 16-17, 1975, paragraph 1(c) of the Committee's authorization was amended to read as follows:

(c) To buy U.S. Government securities, obligations that are direct obligations of, or fully guaranteed as to principal and interest by, any agency of the United States, and prime bankers' acceptances of the types authorized for purchase under 1(b) above, from dealers for the account of the Federal Reserve Bank of New York under agreements for repurchase of such securities, obligations, or acceptances in 15 calendar days or less, at rates that, unless otherwise expressly authorized by the Committee, shall be determined by competitive bidding, after applying reasonable limitations on the volume of agreements with individual dealers; provided that in the event Government securities or agency issues covered by any such agreement are not repurchased by the dealer pursuant to the agreement or a renewal thereof, they shall be sold in the market or transferred to the System Open Market Account; and provided further that in the event bankers' acceptances covered by any such agreement are not repurchased by the seller, they shall continue to be held by the Federal Reserve Bank or shall be sold in the open market.

By order of the Federal Open Market Committee, June 23, 1975.

MURRAY ALTMANN,
Deputy Secretary.

[FR Doc.75-17219 Filed 7-1-75;8:45 am]

FIRST OF McALESTER CORP.

Formation of Bank Holding Company

First of McAlester Corporation, McAlester, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of First National Bank & Trust Company of McAlester, McAlester, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 16, 1975.

Board of Governors of the Federal Reserve System, June 25, 1975.

[SEAL] ROBERT SMITH III,
Assistant Secretary of the Board.

[FR Doc.75-17221 Filed 7-1-75;8:45 am]

PADGETT AGENCY, INC.

Order Approving Action To Become a Bank Holding Company and To Acquire a General Insurance Agency

JUNE 24, 1975.

Pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 225.3(a) of regulation Y (12 CFR 225.3(a)), Padgett Agency, Inc., Greenleaf, Kansas ("Applicant"), has applied for prior approval to become a bank holding company through the acquisition of 91.67 percent of the voting shares of The Citizens National Bank, Greenleaf, Kansas ("Bank"). Concurrently, Applicant has applied pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of Regulation Y for approval to acquire Padgett Insurance Agency, Greenleaf, Kansas ("Agency"), and to thereafter act as a general insurance agent or broker with respect to all types of insurance in Greenleaf (population of 448). The operation by a bank holding company of a general insurance agency in a community with a population not exceeding 5,000 persons is an activity that the Board of Governors has previously determined to be closely related to banking (12 CFR 225.4(A)(9)(iii)(a)).

The applications have been processed by the Federal Reserve Bank of Kansas City pursuant to authority delegated by the Board of Governors of the Federal Reserve System under provisions of §§ 265.2(f)(22) and (32) of the Rules Regarding Delegation of Authority.

As required by section 3(b) of the Act, the Reserve Bank gave written notice of receipt of the applications to the Comptroller of the Currency. The Comptroller offered no objection to approval of the applications. Notice of receipt of the applications was published in the FEDERAL REGISTER on May 16, 1975 (40 FR 21540), providing an opportunity for interested persons to submit comments and views with respect to the proposal. Time for filing comments and views has expired and this Reserve Bank has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Inasmuch as the proposal to form a bank holding company by acquisition of shares of Bank merely facilitates a corporate restructuring of ownership, consummation of the proposal would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on other banks in the trade area. Upon acquisition of Bank (deposits of $7.4 million), Applicant would control the 294th largest bank in Kansas, holding .09 percent of total deposits in commercial banks in the State.[1] Bank is the second largest of the eight banks located in Washington County, which approximates the relevant banking market, and con-

[1] All banking data are as of December 31, 1974.

trols 17.67 percent of deposits therein. Acquisition of Bank would result in no immediate change in banking services available in the relevant market.

The financial and managerial resources and future prospects of Applicant, which are dependent on those of Bank and Agency, are considered generally satisfactory and consistent with approval. The debt to be incurred by Applicant appears to be serviceable from the income to be derived from Bank and Agency without having an adverse effect on the financial condition of either Applicant or Bank. Accordingly, banking factors are regarded as being consistent with approval. Consummation of the transaction would have no immediate effect on the area's banking convenience and needs; however, such considerations are consistent with approval of the application to acquire Bank. It is the Reserve Bank's judgment that consummation of the transaction would be in the public interest and that the application should be approved.

Applicant proposes to acquire the general insurance business of Agency, which has been operated by Applicant's principal stockholder. Agency will continue to provide a convenient source of full-line insurance services to residents of the Greenleaf area. There is no evidence in the record indicating that consummation of the proposal and operation of Agency would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest.

The Reserve Bank, therefore, finds that the public interest factors set forth in section 4(c)(8) of the Act are favorable, and the application to engage in the operation of a general insurance agency in Greenleaf, Kansas, should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transaction involving acquisition of shares of Bank shall not be consummated before the thirtieth calendar day following the effective date of this Order and neither Bank nor Agency should be acquired later than three months after the effective date of this Order, unless such period is extended for good cause by the Board of Governors or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Applicant's insurance activities is subject to the conditions set forth in § 225.4(c) of regulation Y and to the authority of the Board of Governors to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modifications or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the regulations and orders issued thereunder or to prevent evasion thereof.

June 20, 1975.

[SEAL] JOHN F. ZOELLNER,
Vice President.

[FR Doc.75-17220 Filed 7-1-75;8:45 am]

UNION TRUST COMPANY OF WILDWOOD, N.J.

Notice of Application for Exemption From Registration

Notice is hereby given that Union Trust Company of Wildwood, New Jersey, a member state bank of the Federal Reserve System, has applied to the Board of Governors, pursuant to sections 12(h) and 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781), for exemption from the registration requirements of section 12(g) of said Act.

Any interested person may, on or before July 17, 1975, (i) submit written comments and recommendations with respect to the application, (ii) request the holding of a hearing on the matter, stating the nature of his interest and the reason for such request, or (iii) request to be notified if the Board should order a hearing thereon. Such communication should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. At any time after the expiration of said 15 days, an order disposing of the application may be issued by the Board upon the basis of the information stated therein and other available information, unless an order for a hearing thereon shall have been issued. A copy of the application is available for public inspection in Room B-1118 of the Board building, 20th Street and Constitution Avenue, NW., Washington, D.C.

By order of the Board of Governors, acting by its Director of the Division of Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(7)), June 23, 1975.

[SEAL] ROBERT SMITH III,
Assistant Secretary of the Board.

[FR Doc.75-17222 Filed 7-1-75;8:45 am]

UTAH BANCORPORATION

Acquisition of Bank

Utah Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to become a bank holding company through acquisition of 100 per cent of the voting shares of Bountiful Valley Bank, Bountiful, Utah. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than July 16, 1975.

Board of Governors of the Federal Reserve System, June 25, 1975.

[SEAL] ROBERT SMITH, III,
Assistant Secretary of the Board.

[FR Doc.75-17223 Filed 7-1-75;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that there will be a meeting of the Committee on Early Childhood Education of the National Advisory Council on the Education of Disadvantaged Children. The Committee meeting will be held Thursday, July 17, 1975, at the Statler Hilton Hotel, 16th and K Streets NW., from 7 p.m.-9 p.m.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the Committee meeting is to review materials for presentation to full Council at the scheduled meeting for July 19, 1975.

Signed at Washington, D.C., on June 30, 1975.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.75-17389 Filed 7-1-75;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 75-41]

SPACE SCIENCE STEERING COMMITTEE

Renewal of Advisory Subcommittee, Determination

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Administrator of NASA has determined that the renewal of an ad hoc advisory Subcommittee to review proposals for Participation in The Scientific Definition of Explorer-Class Payloads is in the public interest in connection with the performance of duties imposed upon NASA by law. The Space Science Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of Government employees.

The function of this Subcommittee will be to obtain the advice of the scientific community on proposals in the special-

ized areas identified by the name of the Subcommittee.

Dated: June 27, 1975.

DUWARD L. CROW,
Assistant Administrator for Department of Defense and Interagency Affairs.

[FR Doc.75-17238 Filed 7-1-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARCHITECTURE + ENVIRONMENTAL ARTS PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Architecture + Environmental Arts Panel to the National Council on the Arts will be held on July 23-24, 1975 from 9 a.m.-5:30 p.m. (both days) in the 11th floor conference room of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975 (40 FR 25522) this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6110.

ROBERT SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-17212 Filed 7-1-75;8:45 am]

DANCE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Dance Advisory Panel to the National Council on the Arts will be held on July 21, 22, 23, 24, 1975 from 9 a.m.—5:30 p.m. (all four days) in the 14th floor conference room of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975 (40 FR 25522) this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Acting Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6110.

ROBERT SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-17211 Filed 7-1-75;8:45 am]

National Endowment for the Humanities

ADVISORY COMMITTEE ON SCIENCE, TECHNOLOGY AND HUMAN VALUES

Renewal

JUNE 24, 1975.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Advisory Committee on Science, Technology and Human Values has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until June 30, 1977.

This committee provides the National Council on the Humanities policy advice concerning a continuing program of the National Science Foundation and the National Endowment for the Humanities to support research and educational activities concerning relationships of science and technology to ethics and values. The compass of the program is related to both technology assessment and environmental impact but more specialized than either in its concentration on cultural and humanistic values. The committee reports to the Chairman of the Endowment and to the National Council on the Humanities.

The charter for the committee will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.75-17287 Filed 7-1-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-10, 50-237 and 50-249]

COMMONWEALTH EDISON CO.

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 10 to Facility Operating License Nos. DPR-2 and DPR-19 and Amendment No. 9 to Facility Operating License No. DPR-25 issued to the Commonwealth Edison Company (the licensee) which revised the licenses for operation of Dresden Units 1, 2 and 3 (the facilities) located in Grundy County, Illinois. These amendments are effective as of their date of issuance.

The amendments authorize the licensee to receive, possess, and use up to 21 curies of cesium 137 in the form of sealed sources for radiation monitoring equipment to be used in support of operation of the facilities in accordance with the licensee's application dated April 23, 1975. Consistent with the application of April 23, the amendment also further amends License No. DPR-2 to add antimony 122-124 and americium 241 in the form of sealed sources for reactor start-up in connection with operation of Dresden Unit 1.

The application for these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments is not required since these amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for these amendments dated April 23, 1975, (2) Amendment No. 10 to License Nos. DPR-2 and DPR-19 and Amendment No. 9 to License No. DPR-25, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and for Dresden 2 and 3 at the Morris Public Library at 604 Liberty Street in Morris, Illinois 60451. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 20th day of June 1975.

For The Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Reactor Licensing.

[FR Doc.75-17175 Filed 7-1-75;8:45 am]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Request for Exemption From Requirements Concerning Emergency Core Cooling System Performance

As required by 10 CFR 50.46(a)(2) and orders previously entered in this docket on August 5, 1974 (39 FR 29611) and April 3, 1975 (40 FR 16371), Commonwealth Edison Company's Dresden Nuclear Power Station, Unit 1, must achieve compliance with acceptance criteria for emergency core cooling systems (ECCS) published in Appendix K to 10 CFR Part 50, by August 2, 1975, unless either (1) an extension of time for submission of the required ECCS performance evaluation is approved by the Director of Nuclear Reactor Regulation pursuant to 10 CFR 50.46(a)(2)(iii), or (2) an exemption from the operating requirements of 10 CFR 50.46(a)(2)(iv) is granted by the Commission for good cause shown. As required by § 50.46(a)(2)(vi), notice is hereby given that the Commission has received and is considering a request from Commonwealth Edison Company for "an exemption from 10 CFR 50.46 and any underlying requirement with respect to the design and diversity of emergency systems or the diversity of emergency power sources" for the Dresden Nuclear Power Station, Unit 1, until modifications to the reactor's ECCS are completed. The request states that "[t]he earliest possible completion date for these modifications is currently believed to be December 31, 1977."

The request may be granted upon the findings that good cause has been shown, that it would be in the public interest to allow the licensee a specified additional period of time within which to alter the operation of the facility in the manner required by § 50.46(a)(2)(iv), and that there is reasonable assurance that the granting of the exemption will not adversely affect the health and safety of the public.

The Commission invites the submission of views and comments by interested persons concerning the action to be taken on the request for exemption. Such views and comments should be submitted in writing, addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington. DC, 20555, not later than July 16, 1975. Pursuant to 10 CFR 50.46(a)(2)(vi), the Director of Nuclear Reactor Regulation shall submit his views on the requested exemption not later than July 21, 1975.

A copy of the request for exemption dated June 18, 1975, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

Dated at Washington, D.C. this 27th day of June, 1975.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.75-17235 Filed 7-1-75;8:45 am]

[License No. 20-15525-02E]

ION TRACK INSTRUMENTS, INC.

Issuance of Amendment of Byproduct Material License

Please take notice that the Nuclear Regulatory Commission has, pursuant to § 32.26 of 10 CFR Part 32, issued Amendment No. 01 to License No. 20-15525-02E to Ion Track Instruments, Incorporated, 179 Bear Hill Road, Waltham, Massachusetts 02154, which authorizes the distribution of Models 62 and 70 explosives detectors and Model SF6 gas detector to persons exempt from the requirements for a license pursuant to § 30.20 of 10 CFR Part 30.

1. The devices are designed to detect vapors from explosives and sulfur hexafluoride tracer gas in natural gas. The sensitive element of each device is the detection chamber in which an argon gas/air sample mixture flowing through the chamber is made conductive by beta particles emitted by radioactive tritium or nickel-63.

2. The byproduct material incorporated in Models SF6 and 77 detectors is 500 millicuries of tritium absorbed in titanium which is contained in foils manufactured by the Radiochemical Centre. The byproduct material incorporated in Models 62 and 70 detectors is 10 millicuries of nickel-63 contained in foils manufactured by the Radiochemical Centre.

3. Each exempt unit will have a label identifying the importer (Ion Track Instruments, Inc.) and the byproduct material (tritium or nickel-63) contained in the unit and recommending that the unit be returned to Ion Track Instruments, Inc. for repair or disposal.

A copy of the license and a safety evaluation containing additional information, prepared by the Division of Materials and Fuel Cycle Facility Licensing, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland June 24, 1975.

For the Nuclear Regulatory Commission.

BERNARD SINGER,
Chief, Materials Branch, Division of Materials and Fuel Cycle Facility Licensing.

[FR Doc.75-17176 Filed 7-1-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON COMBUSTION ENGINEERING SYSTEM 80

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Combustion Engineering System 80 will hold a meeting on July 18, 1975 in Room 1046 at 1717 H Street, NW., Washington, D.C. The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application of Combustion Engineering, Inc., for a Reference System Standard Project Review.

The agenda for the subject meeting shall be as follows:

Friday, July 18, 1975, 9:00 a.m. until the conclusion of business. The Subcommittee will hear presentations by representatives of the NRC Staff and Combustion Engineering, Inc., and will hold discussions with these groups pertinent to its review of the application of Combustion Engineering, Inc., for a Reference System Standard Project Review.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representatives of the NRC Staff and applicant for the purpose of discussing privileged information concerning plant physical security and other matters related to plant design, construction, and operation, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than July 10, 1975 to the Executive Secretary, Advisory Com-

mittee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C., 20555. Such comments shall be based upon the Preliminary Safety Analysis Report for this project and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee between the hours of 9:30 a.m. and 10:30 a.m.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on July 17, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634–1393, G. Quittschreiber) between 8:15 a.m. and 5 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information, other than plant security information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20555, seven days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after July 25, 1975 at the Nuclear Regulatory Commission's Public Document Room, 1717 H St., NW., Washington, D.C. 20555. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202/547–6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 after October 20, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: June 27, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 75–17236 Filed 7–1–75; 8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 4.10, "Irreversible and Irretrievable Commitments of Material Resources," provides a basis acceptable to the NRC staff for discussions of irreversible and irretrievable commitments of material resources required in the evaluation of the environmental impact involved in the construction of a 1000 MWe pressurized water reactor. This guide endorses ORNL–TM–4515, "Estimated Quantities of Materials Contained in a 1000-MW(e) PWR Plant."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 4.10 will, however, be particularly useful in evaluating the need for an early revision if received by August 29, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 4 Regulatory Guides currently being developed include the following:

Cooling Water System—Protection of Aquatic Organisms (Entrapment)
Cooling Water System—Protection of Aquatic Organisms (Entrainment)
Cooling Water System—Protection of Aquatic Organisms (Cold Shock)
Effluent Monitoring Guide for UF_6 Conversion Facilities
Effluent Monitoring Guide for Uranium Mills
Effluent Monitoring Guide for Fuel Fabrication Facilities
Effluent Monitoring Guide for Irradiated Fuel Reprocessing
Analytical Models for Estimating Radioisotope Concentration in Different Water Bodies
Methods for Estimating Atmospheric Dispersion of Gaseous Effluents from Routine Releases
Calculation of Releases of Radioactive Materials in Liquid and Gaseous Effluents from Boiling Water Reactors
Calculation of Releases of Radioactive Materials in Liquid and Gaseous Effluents from Pressurized Water Reactors
Calculation of Annual Average Doses to Man from Routine Releases of Reactor Effluents for the Purpose of Implementing Appendix I
Land Use Assessment—Agriculture
Nuclear Power Stations—Guide to Terrestrial Studies
Preparation of Early Site Review Reports for Nuclear Power Stations

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 24th day of June 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Director, Office of Standards Development.

[FR Doc.75–17177 Filed 7–1–75;8:45 am]

REGULATORY GUIDES

Issuance and Availability

The Nuclear Regulatory Commission has issued two new guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations, and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.70.37, "Information for Safety Analysis Reports—Pressurizer Relief Discharge System," and Regulatory Guide 1.70.38, "Information for Safety Analysis Reports—Training," identify information that is needed in safety analysis reports at the construction permit and operating license stages of review.

These guides are two of a number being issued in the 1.70.X series to identify information that has often been missing from applicants' safety analysis reports or to present revisions necessary to make

a portion of the "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," Revision 1, October 1972 (Regulatory Guide 1.70), consistent with the appropriate Standard Review Plan. Standard Review Plans (SRPs) are being prepared by the NRC staff for the guidance of staff reviewers who perform the detailed safety review of applications to construct or operate nuclear power plants. A primary purpose of SRPs is to improve the quality and uniformity of staff reviews and to provide a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. A complete Revision 2 of the Standard Format incorporating the changes presented in this 1.70.X series will be issued following completion of publication of the SRPs.

Comments and suggestions in connection with improvements in all published guides are encouraged at any time. Public comments on Regulatory Guides 1.70.37 and 1.70.38 will, however, be particularly useful in developing the forthcoming revision of the Standard Format if received by September 2, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 25th day of June 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Director, Office of Standards Development.

[FR Doc.75-17237 Filed 7-1-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR EARTH SCIENCES

Meeting

The Advisory Panel for Earth Sciences will hold a meeting on July 24 and 25, 1975, from 9 a.m. to 5 p.m. at the Graduate School of Oceanography, University of Rhode Island, Kingston, Rhode Island.

The purpose of this Panel is to provide advice and recommendations as part of the review and evaluation process for specific research proposals that have been assigned to the Earth Sciences Section. This Panel functions in accordance with the Federal Advisory Committee Act, Pub. L. 92-463.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552 (b) (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. William Benson, Head, Earth Sciences Section, Rm. 310, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4210.

FRED K. MURAKAMI,
Committee Management Officer.

JUNE 26, 1975.

[FR Doc.75-17181 Filed 7-1-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 27, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Departmental and other, Projected Natural Gas Curtailments to Anhydrous Ammonia Plants, 1975/76, single-time, fertilizer manufacturers, Lowry, R. L., 395-3772.

Economic Research Service, Iowa Ownership Survey, single-time, individuals, Lowry, R. L., 395-3772.

Forest Service, Recreation Resources Visitor Information Service User Study, single-time, visitors to information service centers, Planchon, P., 395-6140.

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce, Intravenous (I.V.) Solution Containers—Glass and Plastic, DIB-971, single-time, producers of intravenous containers, Lowry, R. L., 395-3772.

Bureau of the Census, Longitudinal Manpower Survey, First Follow-up Questionnaire, Respondent's Record Card, Dear Friend Letter, LMS-102, LMS-5, LMS-109, Quarterly, participants in manpower administration CETA program, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Declaration for Electronic Products for Which Standards are Prescribed Under the Radiation Control for Health and Safety Act 1968, FD 2877, on occasion, business firms, Lowry, R. L., 395-3772.

Social Security Administration, Statement for Determining Continuing Eligibility for Supplementary Security Income Payments, SSA-8200A, annually, supplemental security income recipients, Lowry, R. L., 395-3772.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, 1976 National Highway Inventory and Performance Study, single-time, State highway departments, Strasser, A., 395-5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Regulations—Special Supplemental Food Program for Women, Infants and Children (WIC), on occasion, State agencies and local agencies/health clinics, 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, Reference Inquiry: Job Applicant, HSM 9.69, on occasion, college professors and or employers of applicants, Caywood, D. P., 395-3443.

Social Security Administration, State Agency Quality Assurance Report, SSA 2522, monthly, government agencies, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-17362 Filed 7-1-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5593]

REGULATIONS A AND F FILINGS

Los Angeles Region

Notice is hereby given of the transfer to the Los Angeles Regional Office from the San Francisco Branch Office of filing and review responsibilities for all filings previously submitted to the Commission's San Francisco office pursuant to Regulations A (17 CFR §§ 230.251 to 230.263) and F (17 CFR §§ 230.651 to 230.656) under the Securities Act of 1933. The effective date for the transfer will be July 1, 1975. The Los Angeles Region includes the States of Arizona, California, Hawaii, and Nevada and the Territory of Guam.

On or after July 1, 1975 materials will be accepted for filing only in Los Angeles. Accordingly, all new filings, as well as material relating to filings previously submitted to the San Francisco office, shall be directed to the Commission's office in Los Angeles. Where the documents relate to filings prior to July 1, 1975, the material will be forwarded to San Francisco for review, consideration and appropriate disposition.

In submitting filings under Regulations A and F, the Commission requests that the material be addressed to:

Richard Gordon, Chief, Branch of Regulation A and Interpretations, Los Angeles Regional Office, Securities and Exchange Commission, 312 North Spring Street, Los Angeles, Calif. 90012.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

JUNE 24, 1975.

[FR Doc.75-17172 Filed 7-1-75;8:45 am]

[Rel. No. 11499]

SEC REPORT COORDINATING GROUP

First Annual Report and Recommendations for a Focus Report

JUNE 26, 1975.

The Securities and Exchange Commission today announced that the first Annual Report including recommendations for the adoption of a FOCUS Report was submitted to the Commission by the SEC Report Coordinating Group ("The Group").

The Group, an advisory committee formed pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770 (1972), was chartered on May 1, 1974 for a two year period, with the announced purpose of advising the Commission in the development of a streamlined reporting pattern for the securities industry. The Group delivered an Interim Report on December 16, 1974, with recommendations in four areas: a uniform financial and operational report (FOCUS Report); uniform assessments forms; uniform trading forms; and uniform registration forms and record retention periods.

The first annual report of the Report Coordinating Group was submitted on June 16, 1975, and contained specific recommendations.

Financial and operational reports. Its first annual report amplified and made specific recommendations for the adoption of a FOCUS Report of financial and operational information. The recommended FOCUS Report would be composed of a Part I short form summary filed monthly by certain clearing or carrying firms; Part II surveillance report filed quarterly by financially and operationally sound clearing or carrying firms; Part IIA "short form" in lieu of Part II filed quarterly by small broker-dealers, firms not clearing and not carrying customer accounts and firms doing a limited type of business; and an "annual audit report" in which the extent and timing of the application of the audit procedures would be determined, as in other industries, by the independent public accountant according to his professional judgment after considering the circumstances in a particular case.

Assessment forms and procedures. In the area of assessment forms, the Group has recommended, among other things, that each regulatory organization study the possibility of eliminating assessment forms based on net commission revenue and consider collecting assessments based on data captured at the source in computer form through the clearing mechanism of each respective exchange. An Assessments Forms Task Force has been created and will hold its first meeting on June 30, 1975.

Registration forms. Regarding registration forms, the Group's recommendation that the Form U-3, the uniform broker-dealer registration form, and the Form U-4, the uniform agent registration form, be adopted has been largely implemented. Forty-five states, the Commission, and the National Association of Securities Dealers, Inc. have adopted the recommended uniform broker-dealer registration form; and forty-eight states, the Commission, all registered national securities exchanges, the National Association of Securities Dealers, Inc., and certain commodity exchanges have adopted the recommended uniform agent registration form.

Trading forms. In the area of trading forms, the Group has ascertained that there are one hundred four existing trading forms which could be reduced to twenty nine such forms. A Trading Forms Task Force has been created and will hold its first meeting on July 1, 1975.

The Commission presented certificates of appreciation to the members of the Group for their generous and devoted service. The members of the Group are:

David J. Barry, Senior Vice President, Manufacturers Hanover Trust Company, New York, New York.
Kenneth J. Bialkin, Esquire, Partner, Wilkie Farr & Gallagher, New York, New York.
Thomas R. Cassella, Manager of Operations, Securities Investor Protection Corporation, Washington, D.C.
Bryan P. Coughlin, Jr., Vice President, Midwest Stock Exchange, Inc., Chicago, Illinois.
R. John Cunningham (Chairman), Director, Arthur Young & Company, New York, New York.
Joseph F. Neil, Vice President, Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York.
Paul H. Fitzgerald, Vice President, New York Stock Exchange, Inc., New York, New York.
Robert E. Googins, Vice President, Counsel and Secretary, Connecticut Mutual Life Insurance Company, Hartford, Connecticut.
Nelson S. Kibler, Assistant Director, Securities and Exchange Commission, Washington, D.C.
Philip J. Lo Bue, Vice President, Pacific Stock Exchange, Inc., Los Angeles, California.
Hugh H. Makens, Director, Department of Commerce, Corporations & Securities Bureau, Lansing, Michigan.
Douglas F. Parillo, Vice President, National Association of Securities Dealers, Inc., Washington, D.C.
Daniel J. Piliero II (Secretary), Assistant Director, Securities and Exchange Commission, Washington, D.C.
Frank H. Spearman III, Partner, Haskins & Sells, Los Angeles, California.
Eli Weinberg, Senior Vice President, White, Weld & Co., New York, New York.
Bernard Weissman, Chairman of the Board and Secretary-Treasurer, Gold, Weissman & Frankel, Inc., New York, New York.

It was also announced that a limited number of copies of the first annual report including the recommendations for the adoption of a FOCUS Report will be available from the Commission and that the First Annual Report will be available for review in the Public Reference Room at each of the Commission's Regional Offices on or about July 1, 1975.

The Commission solicits from interested members of the public, comments concerning the first annual report and the recommendations for the adoption of a FOCUS report.

The comments should be filed on or before July 15, 1975. The communications should be addressed to:

Daniel J. Piliero II, Esq.
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
Washington, D.C. 20549

All comments will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-17190 Filed 7-1-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-5177]

BUSINESS CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On May 15, 1975, a notice was published in the FEDERAL REGISTER (40 FR 21083) stating that Business Capital Corporation, located at 1732 Canal Street, New Orleans, Louisiana 70112, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1975) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment ended May 30, 1975.

Notice is hereby given that, having considered the application and other pertinent information, SBA has issued License No. 06/06-5177 to Business Capital Corporation.

Dated: June 25, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-17230 Filed 7-1-75;8:45 am]

[Declaration of Disaster Loan Area #1150]

WISCONSIN

Declaration of Disaster Area

Buffalo, Crawford, Dunn, Grant, La Crosse, Pepin, Pierce, Trempealeau, Vernon and adjacent counties within the State of Wisconsin constitute a disaster area because of damage resulting from heavy rainfall and flooding, coupled with the spring runoff, which occurred April 25 through May 16, 1975. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 18, 1975, and for economic injury until the close of business on March 19, 1976, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 713, Madison, Wisconsin 53703.

or other locally announced locations.

Dated: June 19, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-17231 Filed 7-1-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 18 (Sub-No. 13)]

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment of Passenger Main Track

JUNE 23, 1975.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Boyd County, Ky., on or before July 7, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 19th day of June, 1975.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

CHESAPEAKE AND OHIO RAILWAY COMPANY ABANDONMENT PORTION OF EASTBOUND PASSENGER MAIN TRACK AND PORTION OF THE WESTBOUND MAIN PASSENGER TRACK, AT ASHLAND, BOYD COUNTY, KENTUCKY

The Interstate Commerce Commission hereby gives notice that by order dated June 19, 1975, it has been determined that the proposed abandonment by the Chesapeake and Ohio Railway Company of portions of its eastbound and westbound main passenger tracks and associated side and yard tracks totalling 11.75 miles, all in Ashland, Boyd County, Ky., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because passenger service will still be provided to the area by a new passenger terminal located at Catlettsburg, and no major salvaging operations will be required on the subject line. An environmental benefit of this action will be the elimination of 11 grade crossings in the downtown Ashland area.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before July 14, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.75-17264 Filed 7-1-75;8:45 am]

ASSIGNMENT OF HEARINGS

[Notice No. 802]

JUNE 27, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139193 Sub 21, Roberts & Oake, Inc., now assigned September 15, 1975, at Kansas City, Missouri, is postponed indefinitely.

MC 134716 Sub 5, Rush Trucking, Inc., now assigned September 8, 1975, at Tallahassee, Fla., is canceled and reassigned for hearing September 8, 1975, (1 week), at Miami, Fla.; in a hearing room to be later designated.

AB-28, Central of Georgia Railroad Company Abandonment Between Lafayette and Roanoke, in Chambers and Randolph Counties, Alabama, now being assigned September 3, 1975 (3 days) at Roanoke, Alabama; in a hearing room to be designated later.

MC 128932 Sub 7, Roberts L. Torrans, dba Commercial Storage & Distribution Co., now being assigned September 8, 1975 (1 week) at Dallas, Texas; in a hearing room to be designated later.

MC 74321 Sub 111, B. F. Walker, Inc., MC 113459 Sub 97, H. J. Jefferies Truck Line, Inc., MC 115603 Sub 12, Turner Bros., Trucking Company, Inc. and MC 138104 Sub 22, Moore Transportation Co., Inc., now being assigned September 18, 1975, (2 days), at Birmingham, Ala.; in a hearing room to be later designated.

MC 114273 Sub 226, Crst, Inc., now being assigned September 15, 1975, (1 day), at Kansas City, Mo.; in a hearing room to be later designated.

MC 117815 Sub 238, Pulley Freight Lines, Inc., now being assigned September 30, 1975 (1 day) at Chicago, Illinois; in a hearing room to be designated later.

MC 110420 Sub 719, Quality Carriers, Inc., now being assigned October 10, 1975 (1 week) at Chicago, Illinois; in a hearing room to be designated later.

No. 36178, Increased Fares, Baltimore and Ohio Railroad Company, now being assigned for prehearing Conference August 6, 1975, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 25869 Sub 123, Nolte Bros. Truck Line, Inc., now assigned July 28, 1975, at Amarillo, Tex., is canceled and application dismissed.

MC-C-8551, Red Star Express Lines of Auburn, Inc. V. Boss-Linco Lines, Inc., now assigned July 1, 1975 at Washington, D.C., is postponed to July 30, 1975 at the Offices Of The Interstate Commerce Commission, Washington, D.C.

MC 117883 Sub 195, Subler Transfer, Inc., now assigned July 28, 1975 at Amarillo, Texas, is canceled and the application is dismissed.

MC 45544 Sub 5, Silver Line, Inc., now assigned July 8, 1975, at New York, N.Y., is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17259 Filed 7-1-75;8:45 am]

[Notice No. 22]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 27, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 111383 (Deviation No. 19), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Memphis, Tenn., over U.S. Highway 72 to Decatur, Ala., thence over U.S. Highway 31 to junction Interstate Highway 65, thence over Interstate

Highway 65 to Birmingham, Ala., and return over the same route. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Memphis, Tenn., over U.S. Highway 51 to Jackson, Miss., thence over U.S. Highway 80 to junction U.S. Highway 11, thence over U.S. Highway 11 to Birmingham, Ala., and return over the same route.

No. MC 111383 (Deviation No. 20), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Memphis, Tenn., over U.S. Highway 64 to Chattanooga, Tenn., thence over U.S. Highway 41 to Atlanta, Ga., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Memphis, Tenn., over U.S. Highway 51 to Jackson, Miss., thence over U.S. Highway 80 to junction U.S. Highway 11, thence over U.S. Highway 11 to Birmingham, Ala., thence over U.S. Highway 78 to Atlanta, Ga., and return over the same route.

No. MC 111383 (Deviation No. 21), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Memphis, Tenn., over U.S. Highway 78 to Tupelo, Miss., thence over U.S. Alternate 45 to junction U.S. Highway 82, thence over U.S. Highway 82 to Montgomery, Ala., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Memphis, Tenn., over U.S. Highway 51 to Jackson, Miss., thence over U.S. Highway 80 to Montgomery, Ala., and return over the same route.

No. MC 111383 (Deviation No. 22), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Memphis, Tenn., over U.S. Highway 78 to New Albany, Miss., thence over Mississippi Highway 15 to junction Mississippi Highway 19 at Philadelphia, Miss., thence over Mississippi Highway 19 to Meridian, Miss., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Memphis, Tenn., over U.S. Highway 51 to Jackson, Miss., thence over U.S. Highway 80 to Meridian, Miss., and return over the same route.

No. MC 111383 (Deviation No. 23), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Monroe, La., over Louisiana Highway 34 to Joyce, La., thence over U.S. Highway 167 to junction U.S. Highway 71 near Alexandria, La., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Monroe, La., over U.S. Highway 80 to Shreveport, La., thence over U.S. Highway 71 to Alexandria, La., and return over the same route.

No. MC 111383 (Deviation No. 24), BRASWELL MOTOR FREIGHT LINES, INC., P.O. Box 4447, Dallas, Tex. 75208, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From junction U.S. Highway 84 and Interstate Highway 65 near Evergreen, Ala., over U.S. Highway 84 to Archie, La., thence over Louisiana Highway 28 to Alexandria, La., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction U.S. Highway 84 and Interstate Highway 65 near Evergreen, Ala., over Interstate Highway 65 to Montgomery, Ala., thence over U.S. Highway 80 to Shreveport, La., thence over U.S. Highway 71 to Alexandria, La., and return over the same route.

No. MC 42487 (Deviation No. 106), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 7101 S. Cicero Ave., Chicago, Ill. 60629, filed June 18, 1975. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over deviation routes as follows: (1) From Charlotte, N.C., over Interstate Highway 77 (using segments as they are completed) to Columbia, S.C., and (2) From Charlotte, N.C., over U.S. Highway 21 to Columbia, S.C., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Charlotte, N.C., over U.S. Highway 74 to Asheville, N.C., thence over U.S. Highway 25 to Hendersonville, N.C., thence over U.S. Highway 176 to Spartanburg, S.C., thence over U.S. Highway 221 to Laurens, S.C., thence over U.S. Highway 76 to Columbia, S.C., and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-17260 Filed 7-1-75;8:45 am]

[Notice No. 10]

MOTOR CARRIERS ALTERNATE ROUTE DEVIATION NOTICES

JUNE 27, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2 (c)(9) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2 (c)(9).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2 (c)(9) at any time, but will not operate to stay commencement of the proposed operations unless filed on or before August 1, 1975.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

No. MC 13300 (Deviation No. 32), CAROLINA COACH COMPANY, 1201 South Blount Street, Raleigh, N.C. 27602, filed May 7, 1975. Carrier's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Bldg., Pa. Ave. S. 13th St., N.W., Washington, D.C. 20004. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Rocky Mount, N.C., over North Carolina Highway 97 to Hobgood, N.C., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Rocky Mount, N.C., over U.S. Highway 64 to Tarboro, N.C., thence over U.S. Highway 258 to junction North Carolina Highway 122, thence over North Carolina Highway 122 to Hobgood, N.C., and return over the same route.

No. MC 37640 (Deviation No. 2), TEXAS BUS LINES, P.O. Box 418, Galveston, Tex., 77550, filed June 18, 1975. Carrier's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express,* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Beaumont, Tex., over Interstate Highway 10 to Winnie, Tex., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and

property, over a pertinent service route as follows: From Beaumont, Tex., over Texas Highway 124 to Winnie, Tex., and return over the same route.

No. MC 37640 (Deviation No. 1), TEXAS BUS LINES, P.O. Box 418, Galveston, Tex., 77550, filed June 18, 1975. Carrier's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Galveston, Tex., over U.S. Highway 75 (Interstate Highway 45) to junction Texas Highway 146, thence over Texas Highway 146 to junction Interstate Highway 10, thence over Interstate Highway 10 to Winnie, Tex., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and property, over a pertinent service route as follows: From Galveston, Tex., by ferry to Port Bolivar, Tex., thence over Texas Highway 87 to junction Texas Highway 124, thence over Texas Highway 124 to Winnie, Tex., and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-17261 Filed 7-1-75;8:45 am]

(Notice No. 51)

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 27, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application in compliance with the requirements of 49 CFR 1100.250.

Protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission's General Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) or section 240(c)(4) of the special rules, and shall include the certification required therein.

MC 100666 (Sub-No. 262) (Republication), filed December 14, 1973, and published in the FEDERAL REGISTER issue of January 24, 1974, and republished this issue. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 NW 58th, 280 National Fdn., Life Bldg., Oklahoma City, Okla. 73112. An Order of the Commission, Division 1, Acting as an Appellate Division, dated June 10, 1975, and served June 19, 1975, finds that the present and future public convenience and necessity requires operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *metal conduit for electrical and telephone wiring*, from the manufacturing facilities of Cellco Industries, Inc., at or near Charleroi, Pa., to points in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to modify the territorial description to delete Donora, Pa., as the origin point, and to substitute in lieu thereof "the manufacturing facilities of Cellco Industries, Inc., at or near Charleroi, Pa." Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MC 107496 (Sub-No. 950) (Republication), filed April 12, 1974, and Published in the FEDERAL REGISTER issue of May 23, 1974, and republished this issue. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Third at Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). An Initial Decision of the Commission, Administrative Law Judge John Roger Corcoran, served May 7, 1975, which became the Order of the Commission on June 6, 1975, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *fertilizer solutions*, in bulk, (a) from Athens, Ill., to points in Iowa; and (b) from Washington, Ind., to points in Illinois (except East St. Louis) and Kentucky; and (2) *sulfates*, in bulk, in tank vehicles, from Iowa City, Iowa to points in Texas, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to modify the commodity description in (2) above. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MC 129862 (Sub-No. 5) (Republication), filed January 28, 1974, and published in the FEDERAL REGISTER issue of March 14, 1974, and republished this issue. Applicant: RAJOR, INC., 2 Lewisburg Pike, P.O. Box 756, Franklin, Tenn. 37064. Applicant's representative: William J. Monheim, P.O. Box 1257, City of Industry, Calif. 91749. An Order of the Commission, Review Board Number 3, dated June 6, 1975, and served June 19, 1975, finds, that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *athletic, gymnastic, aquatic and sporting goods, parts and accessories of the foregoing commodities, adhesives, rubber tire treads, hardware, advertising material, and materials, equipment and supplies*, utilized in the manufacture, sale, and distribution of the described commodities (1) from Santa Ana, Calif., to Arlington and Houston, Tex., Atlanta, Decatur, and Griffin, Ga., Birmingham and Mobile, Ala., Bridgeton, Mo., Edison and Maywood,

N.J., Elk Grove Village and River Grove, Ill., Nashville, Tenn., New Orleans, La., Shelby, Ohio, and Tampa, Fla., and (2) from points in Texas, and points in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, to Santa Ana, Calif., restricted against the transportation of commodities in bulk and those which by reason of size or weight require the use of special equipment, under a continuing contract or contracts with AMF Voit, Inc., of Santa Ana, Calif., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate that applicant intends to serve Edison, N.J., and Shelby, Ohio, as destination points in (1) above. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

MC 133154 (Sub-No. 6) (Republication), filed August 12, 1974, and published in the FEDERAL REGISTER issue of September 6, 1974, and republished this issue. Applicant: DICK BELL TRUCKING, INC., 16036 Valley Blvd., Fontana, Calif. 92335. Applicant's representative: Jed L. Kelson, 3701 Wilshire Blvd., Seventh Floor, East Tower, Los Angeles, Calif. 90010. An order of the Commission, Operating Rights Board, dated May 23, 1975, and served June 12, 1975, finds, that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle over irregular routes, (1) *of beds, in containers,* (2) *of bed accessories and promotional items in mixed loads with beds, mattresses and box springs,* and (3) *of beds, mattresses and box springs in mixed loads with bed accessories and promotional items,* from Los Angeles, Calif., to points in Arizona, Nevada, and Utah, under a continuing contract or contracts with Lifetime Foam Products, Inc., of Franklin Park, Illinois, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the correct contracting shipper. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 19868 (Notice of filing of petition to modify commodity description), filed June 4, 1975. Petitioner: GALLAGHER TRUCKING CO., a corporation, Maine & Ridge Ave., Philadelphia, Pa. 19127. Petitioner's representative: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, Pa. 19102. Petitioner holds a motor *common carrier* certificate in No. MC 19868, issued July 1, 1967, authorizing transportation, over irregular routes, of *Ship ranges and parts, shipbuilders' supplies,* and *electrical machinery and supplies,* from Philadelphia, Pa., to New York, N.Y., Wilmington, Del., and points in New Jersey. By the instant petition, petitioner seeks to modify the commodity description in the above authority so as to read, *Commodities,* the transportation of which because of size or weight requires the use of special handling or special equipment. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 123936 (Sub No. 5) (Notice of filing of petition to remove restriction), filed June 13, 1975. Petitioner: RETAIL STORES DELIVERY OF RHODE ISLAND, INC., 208 Kinsley Ave., Providence, R.I. 02903. Applicant's representative: Thomas F. X. Foley, 744 Broad Street, Newark, N.J. 07102. Petitioner holds a motor *common carrier* certificate in No. MC 123936 (Sub-No. 5), issued August 7, 1973, authorizing transportation, over irregular routes, of *such commodities* as are dealt in by retail department stores, in retail delivery service, between Boston, Mass., and points in Rhode Island, points in Fairfield, Hartford, Litchfield, Middlesex, New London, New Haven, Tolland, and Windham Counties, Conn., and points in Barnstable, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Plymouth, and Worcester Counties, Mass. By the instant petition, petitioner seeks to delete the phrase, "in retail delivery service," from the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133965 (Notice of filing of petition to remove restriction), filed June 13, 1975. Petitioner: CALZONA TRANSPORTATION, INC., P.O. Box 6558, Phoenix, Ariz. 85005. Petitioner's representative: William J. Lippman, 1819 H Street NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate in No. MC 133965, issued November 6, 1969, authorizing transportation, as pertinent, over irregular routes, of *Refined petroleum products,* in tank trucks, other than those having special heating or insulating equipment, From points within 30 miles of first and Main Streets, Los Angeles, Calif., to Tucson, Ariz., and points in Maricopa County, Ariz. By the instant petition, petitioner seeks to eliminate the phrase, "other than those having special heating or insulating equipment," from the commodity description in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication of the FEDERAL REGISTER.

No. MC 140268 (Notice of filing of petition to add contracting shippers), filed June 16, 1975. Petitioner: J-GEM TRANSPORTATION, INC., 9565 Reseda Boulevard, Suite 350, Northridge, Calif. 91324. Petitioner's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Petitioner holds a motor *contract carrier* permit in No. MC 140268 issued April 8, 1975, authorizing transportation, over irregular routes, of *Such merchandise* as is usually dealt in by retail furniture stores: (1) Between points in California; (2) Between points in California, on the one hand, and, on the other, points in the United States (including Alaska but excluding Hawaii); and (3) From Salt Lake City and Ogden, Utah, to points in Idaho, under a continuing contract, or contracts, with the following shippers: McMahon Furniture Company, of Los Angeles, Calif.; and Consolidated Foods Corporation, Gem Furniture Division of North Hollywood (Los Angeles), Calif. By the instant petition, petitioner seeks to add Sunline Furniture Manufacturing Co., Compton, Calif.; Barker Manufacturing Company, Portland, Oreg.; McFlem Furniture Manufacturing Co., Los Angeles, Calif.; and Southwest Furniture Mfg., Inc., Burbank, Calif. as additional contracting shippers in the above authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH AN APPLICATION UNDER SECTION 212(b)

No. MC 126173 (Sub-No. 2), filed March 5, 1975. Applicant: AMBER WAREHOUSE, INC., 110 Maltese Drive, Totowa, N.J. 07512. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Jersey City, N.J., on the one hand, and, on the other, points in Bergen, Essex, Mercer, Union, Hudson, Middlesex, and Passaic Counties, N.J.

NOTE.—Applicant requests tacking of its existing authority with transferor's authority at New York, N.Y., to provide operations as described above. By this application, applicant seeks both tacking, and concurrent elimination of the New York, N.Y., gateway. This application is directly related to MC-FC-75024 reopened by Order of the Commission, dated February 10, 1975. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC-F-12541 (REBER TRANSPORT, INC. — PURCHASE (PORTION) — MATERIALS TRANSPORT SERVICE, INC.), published in the June 18, 1975, issue of the FEDERAL REGISTER on page 25757. Application filed June 17, 1975, for temporary authority under section 210a(b).

No. MC-F-12557. Authority sought for purchase by TRANSCON LINES, 101 Continental Blvd., El Segundo, CA 90245, of a portion of the operating rights of (1) CENTRAL MOTOR LINES, INC.; (2) NORTHERN FREIGHT LINES, INC.; and (3) AKERS MOTOR LINES, INCORPORATED, all of 4101 S. Interstate 85, Charlotte, NC 28208. Applicants' attorneys: Wentworth E. Griffin, 1221 Baltimore Ave., Kansas City, MO 64105, and Leonard A. Jaskiewicz, 1730 M St. NW., Washington, DC 20036. Operating rights sought to be transferred: (1) General commodities, with the usual exceptions, as a common carrier over regular routes, between junction U.S. Highway 52 and North Carolina State Road 1669 near Stanleyville, N.C., and junction North Carolina Highway 66 and U.S. Highway 421, near Kernersville, N.C., serving no intermediate points and serving junction U.S. Highway 52 and North Carolina State Road 1669 for the purpose of joinder only, between New York, N.Y., and North Augusta, S.C., serving various intermediate and off-route points, with specific restriction, between Henderson, N.C., and Durham, N.C., serving no intermediate points, and serving Henderson for the purpose of joinder only, between junction U.S. Highway 1 and U.S. Highway 130, near Milltown, N.J., and Easley, S.C., serving various intermediate and off-route points, with specific restriction, between Richmond, Va., and Danville, Va., serving no intermediate points and serving each termini only for the purpose of joinder, between Raleigh, and Greensboro, N.C., serving all intermediate and off-route points of Elon College, Gibsonville, and McLeansville, N.C., between Hanes and Siler City, N.C., serving all intermediate points, between Greensboro and Siler City, N.C., serving all intermediate points, and the off-route points of Cedar Falls, Central Falls, Franklinville, and Worthville, N.C., between junction U.S. Highways 29 and 29A, near China Grove, N.C., and Charlotte, N.C., serving all intermediate points, between Shelby and Kings Mountain, N.C., serving all intermediate points.

Also, and in connection with this route, serving various off-route points, with restriction, between Charlotte, and Monroe, N.C., serving all intermediate points, between Maiden, N.C., and junction U.S. Highway 74 and North Carolina Highway 15, near Shelby, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, with restriction, between Charlotte, and Lincolnton, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, with restriction, between Charlotte, N.C., and Clover, S.C., serving all intermediate points, between Charlotte, N.C., and Statesville, N.C., serving all intermediate points, between Pineville, N.C., and Lancaster, S.C., serving all intermediate points, between Cleveland, and Simpsonville, S.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, with restriction, between Blacksburg, and Gaffney, S.C., serving all intermediate points, between Clearwater, S.C., and Augusta, Ga., serving all intermediate points, with specific restriction, between Albemarle, and Badin, N.C., serving no intermediate points, between Lincolnton, and Gastonia, N.C., serving all intermediate points; also in connection with this route, serving various off-route points, with restriction, between Maiden and Hickory, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, with restriction, between Hickory and Asheville, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, with restriction, between Asheville, and Tuxedo, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, between Hendersonville and Tryon, N.C., serving all intermeidate points; also, and in connection with this route, with restriction, between Hendersonville, and Bat Cave, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, with restriction, between Bat Cave, and Shelby, N.C., serving all intermediate points.

Also, and in connection with this route, serving various off-route points, with restriction, between Forest City, and Henrietta, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points, with restriction, between Shelby and Lawndale, N.C., serving all intermediate points; also, and in connection with this route, serving various off-route points; serving the plant site of Vick Manufacturing Division of Richardson Merrell, Inc., in the borough of Hatboro, Montgomery County, Pa., as an off-route point in connection with carrier's two presently authorized regular-route operations (1) between New York, N.Y., and North Augusta, S.C., and (2) between junction U.S. Highways 1 and 130, near Milltown, N.J., and Easley, S.C., serving the Central Distribution Center of Hanes Corp., Knitwear Division, in Davie County, N.C. (approximately 12 miles southwest of Winston-Salem, N.C.), as an off-route point in connection with carrier's authorized regular-route operations; over one alternate route for operating convenience only; (2) *General commodities* in bulk, in tank vehicles, as a *common carrier* over regular routes, between Atlanta, and Tournapul, Ga., general commodities with the usual exceptions, between points in Georgia, serving all intermediate points, between Toccoa, Ga., and Greenville, S.C., serving no intermediate points, between Gainesville, and Commerce, Ga., between Commerce, Ga., and junction Georgia Highway 52 and U.S. Highway 23, between Dahlonega, and Gainesville, Ga., serving all intermediate points, between Cornelia, and Dahlonega, Ga., serving all intermediate points between Dahlonega and Clarkesville, Ga. (not including Clarkesville), and the off-route point of Helen, Ga.; serving the terminal site of Central Motor Lines, Incorporated, located at or near junction South Carolina Highway 14 and Interstate Highway 85 in Greenville County, S.C., as an off-route point in connection with carrier's otherwise authorized regular route operations, with restriction.

General commodities, with the usual exceptions, over irregular routes, between Greenville, S.C., on the one hand, and, on the other, points in Georgia lying on and east of U.S. 221, within 100 miles of Greenville; (3) *general commodities*, with the usual exceptions, as a *common carrier* over irregular routes, between Gastonia, N.C., and points in North Carolina within 25 miles thereof, on the one hand, and, on the other, points in South Carolina. Vendee is authorized to operate as a common carrier in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming, North Carolina, South Carolina, Rhode Island, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12558. Authority sought for purchase by DATA DISTRIBUTION CENTER COMPANY, INC., 2311 Kruse Drive, San Jose, CA 95150, of the operating rights of THOMPSON'S MOTOR SERVICE, INC., 11552 South Michigan Ave., Chicago, IL 60628, and for acquisition by DATA TRANSPORTATION CO.,

INC., AND WILLIAM F. KRUSE, also of San Jose, CA 95150, of control of such rights through the purchase. Applicant's attorney: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006. Operating rights sought to be transferred: *Household goods,* as defined by the Commission, as a *common carrier* over irregular routes, between Chicago, Ill., and points within 25 miles thereof, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, and Ohio. Vendee holds no authority from this Commission. However, it is affiliated with DATA TRANSPORTATION CO., INC., 2311 Kruse Drive, San Jose, CA 95131, MC 129260, which is authorized to operate as a *common carrier* in California. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGER

No. MC–F–12559. Authority sought for purchase by CORBIN COACH LINES, INC., 1422 Corbin Ave., New Britain, CT 06053, of a portion of the operating rights of BONANZA BUS LINES, INC., P.O. Box 1116, Annex Station (27 Sadin St.), Providence, RI 02901, and for acquisition by PETER B. GWIAZDA, AND JACQUELINE F. GWIAZDA, also of New Britain, CT 06053, of control of such rights through the purchase. Applicants' attorney: John R. Sims, Jr., 425 13th St. NW., Suite 915, Washington, DC 20004. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, and baggage of passengers in a separate vehicle, as a common carrier over regular routes, between Hartford, and Waterbury, Conn., serving all intermediate points. Vendee is authorized to operate as a common carrier in Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Virginia, Florida, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12560. Authority sought for purchase by CONTINENTAL VAN LINES, INC., P.O. Box 2169, Monterey CA 93940, of the operating rights of MOVING CORPORATION OF AMERICA, INC., 59 North Lewis Place, Tulsa, OK 74110, and for acquisition by NORMAN E. WILEY, 2833 Paradise Park Rd., Pebble Beach, CA 93953, of control of such rights through the purchase. Applicants' attorneys: Martin J. Rosen, 140 Montgomery St., San Francisco, CA 94104, and Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier* over irregular routes, between Joplin, Mo., and points within 25 miles of Joplin, on the one hand, and, on the other, points in Missouri, Oklahoma, Kansas, Nebraska, Iowa, and Illinois, between points in Tulsa County, Okla., and those within 25 miles of Tulsa County, on the one hand, and, on the other, points in Arkansas, Kansas, and Texas, between Chicago, Ill., on the one hand, and, on the other, points in Indiana, Michigan, and Ohio, between points in the Chicago, Ill., Commercial Zone, as defined by the Commission on the one hand, and, on the other, points in Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, New York, New Jersey, Ohio, Pennsylvania, and Tennessee, between points within 50 miles of Kay County, Okla., including those in Kay County, on the one hand, and, on the other, points in Arkansas, Colorado, Illinois, Kansas, Missouri, New Mexico and Texas; *general commodities* with the usual exceptions, between points within three miles of Ponca City, Okla., including Ponca City. Vendee is authorized to operate as a common carrier in Nevada, California, Oregon, Washington, Utah, Idaho, Wyoming, Montana, Colorado, and Arizona. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12561. Authority sought for purchase by ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Ave., Denver, CO 80216, of a portion of the operating rights and property of ARROW MOTOR TRANSIT, INC., 4600 W. 34th St., Chicago, IL 60650, and for acquisition by ICX INDUSTRIES, INC., also of Denver, CO 80216, of control of such rights and property through the purchase. Applicant's attorneys: Carl L. Steiner, 39 S. La Salle St., Chicago, IL 60603, and William C. Weinsheimer, One First National Plaza, Chicago, IL 60603. Operating rights sought to be transferred: *General commodities,* with the usual exemptions, as a *common carrier* over regular routes, between Chicago, Ill., and Fort Wayne, Ind., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Illinois, California, Wyoming, Colorado, Arizona, New Mexico, Iowa, Kansas, Nebraska, Missouri, Texas, and Utah. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12562. Authority sought for purchase by STURM FREIGHTWAYS, INC., 3919 N. University, Peoria, IL 61614, of the operating rights and property of BARRICK TRANSFER CO., INC., 301 North Chicago St., Lincoln, IL 62656, and for acquisition by MILDRED R. STURM, also of Peoria, IL 61614, of control of such rights and property through the purchase. Applicants' attorney: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 56925 (Sub-No. 2), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Nebraska, Iowa, Illinois, and Indiana. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 108649 (Sub-No. 7), is a matter directly related.

No. MC–F–12563. Authority sought for purchase by CARGO CONTRACT CARRIER CORP., P.O. Box 206, Sioux City, IA 51102, of a portion of the operating rights of ROAD RUNNER TRUCKING, INC., P.O. Box 37491, Omaha, NE 68137, and for acquisition by WILLIAM J. HANLON, 60 Park Place, Newark, NJ 07102, and CHARLES G. Peterson, also of Sioux City, IA 51102, of control of such rights through the purchase. Applicants' attorney: William J. Hanlon, 60 Park Place, Newark, NJ 07102. Operating rights sought to be transferred: Meat, meat products, meat byproducts and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), as a *common carrier* over irregular routes, from Madison, Nebraska, to points in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 136408 (Sub-No. 27), is a matter directly related.

No. MC–F–12564. Authority sought for control and merger by TUCKER FREIGHT LINES, INC., 1415 South Olive St., South Bend, IN 46619, of the operating rights and property of (1) CONSOLIDATED FORWARDING CO., INC.; (2) CONSOLIDATED CARTAGE CO.; AND (3) TRIANGLE EXPRESS AND TRANSFER COMPANY (with dual operations), all of 1300 N. Tenth St., St. Louis, MO 63101, and for acquisition by SAMUEL RAITZIN, also of South Bend, IN 46619, of control of such rights and property through the transaction. Applicants' attorneys: Roland Rice, Suite 618, 1111 E St. NW., Washington, DC 20004, and B. W. La Tourette, Jr., 11 S. Meramec, Suite 1400, Clayton, MO 63105. Operating rights sought to be controlled and merged: *General commodities,* with the usual exceptions, as a *common carrier* over regular routes, between Milwaukee, Wis., Chicago, Ill., Indianapolis, Ind., and Cincinnati, Ohio, on the one hand, and, on the other, St. Louis and Kansas City, Mo., Muskogee, Oklahoma City, and Tulsa, Okla., and Dallas and Fort Worth, Tex., serving various intermediate and off-route points in Illinois, Missouri, Oklahoma, Texas, and Wisconsin, between Milwaukee, Wisconsin and Chicago, Ill., on the one hand, and on the other, Indianapolis, Indiana, and Cincinnati, Ohio, serving various intermediate and off-route points in Illinois, Indiana, and Wisconsin, between Kansas City, Mo., on the one hand, and, on the other, Muskogee, Oklahoma City, and Tulsa, Okla., and Dallas and Forth Worth, Tex., serving various intermediate and off-route points in Missouri, Kansas, Oklahoma, and Texas, between St. Louis, Mo., on the one hand, and, on the other, Muskogee, Oklahoma City, and Tulsa, Okla.,

and Dallas and Forth Worth, Tex., serving various intermediate and off-route points in Missouri, Oklahoma, and Texas, between St. Louis, Mo., on the one hand, and, on the other, Cedar Rapids, Des Moines, Marshalltown, and Waterloo, Iowa, and St. Paul, Minn., serving various intermediate and off-route points in Iowa and Minnesota, between Kansas City, Mo., on the one hand, and, on the other, Cedar Rapids, Des Moines, Marshalltown, and Waterloo, Iowa, and St. Paul, Minn., serving various intermediate and off-route points in Missouri, Iowa, and Minnesota.

Specific commodities, over irregular routes, *meat and meat by-products*, from the Producers Packing Company near Garden City, Kans., to points in Illinois, Indiana, Missouri, Ohio, Oklahoma, and Wisconsin; *meat and meat by-products*, from Guymon, Okla., to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia; *chocolate*, from Milwaukee, Wis., to points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, Texas, and Illinois; *glass containers*, from Lapel, Ind., to points in New Jersey, New York, Indiana, Pennsylvania, Delaware, Maine, and Massachusetts; (2) *General commodities* with the usual exceptions, as a *common carrier* over irregular routes, between Chicago, Ill., on the one hand, and, on the other, points and places in that part of Illinois and Indiana within 35 miles of Chicago; (3) *General commodities* with the usual exceptions, as a *common carrier* over regular routes, between Dutzow, and St. Louis, Mo., between Nona, and St. Louis, Mo., serving all intermediate points; *General commodities*, with the usual exceptions, over irregular routes, between points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission on the one hand, and, on the other, Dupo, Ill., and points in St. Louis County, Mo., except those in the Township of Meramec.

Livestock, between Augusta, Mo., and points within 15 miles of Augusta, on the one hand, and, on the other, East St. Louis and National City, Ill.; and *such material, supplies, and equipment* as are used or useful in the construction and maintenance of telephone communication lines, and *scrap metal*, as a *contract carrier* over irregular routes, between points in that part of Missouri on and east of a line beginning at the Missouri-Iowa State line and extending along the Chariton River, to junction of the western boundary of Howard County, Mo., and thence along the western boundaries of Howard County, Mo., and thence along the western boundaries of Howard, Cooper, Morgan, Camden, Dallas, Webster, Douglas, and Ozark Counties, Mo., to the Missouri-Arkansas State line; and points in St. Clair and Monroe Counties, Ill., except Dupo, Ill., and except those located in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission, between points in the above-specified Missouri territory, and those in St. Clair and Monroe Counties, Ill., except Dupo, Ill., and except those located in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a (b).

No. MC–F–12565. Authority sought for purchase by ELEVELD CHICAGO FURNITURE SERVICE, INC., 4020 W. 24th St., Chicago, IL 60623, of a portion of the operating rights of CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016, and for acquisition by EUGENE H. ELEVELD, AND DAVID J. ELEVELD, both of Chicago, IL 60623, of control of such rights through the purchase. Applicants' attorney: Leonard R. Kofkin, 39 South LaSalle St., Chicago IL 60603. Operating rights sought to be transferred: *Store, restaurant, and bar fixtures and equipment*, uncrated, as a *common carrier* over irregular routes, between Chicago, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); *store fixtures*, from Chicago, Ill., to points in Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Missouri, Indiana, Michigan, Ohio, Pennsylvania, New York, West Virginia, Tennessee, and Kentucky, with restriction. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Wisconsin, Michigan, Ohio, Minnesota, Iowa, Missouri, Pennsylvania, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12567. Authority sought for purchase by GRABELL TRUCK LINE, INC., 679 Lincoln Ave., Holland, MI 49423, of a portion of the operating rights of LEE MOTOR LINES, INC., 4319 South Madison, Muncie, IN 56202, and for acquisition by M. VAN WYK, 694 Concord Drive, Holland, MI 49423, of control of such rights through the purchase. Applicants' attorney: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Operating rights sought to be transferred: *Glass containers*, and *closures, caps and covers for glass containers*, as a *common carrier* over irregular routes, from the plantsite and facilities of Anchor Hocking Glass Corporation at Winchester, Ind., to points in Michigan; glass containers and closures therefor, from Terre Haute, Ind., to points in the lower Peninsula of Michigan, with restriction; from Lapel, Ind., to points in the lower Peninsula of Michigan. Vendee is authorized to operate as a *common carrier* in Michigan, West Virginia, Pennsylvania, Illinois, Indiana, Missouri, Ohio, Wisconsin, Kentucky, Iowa, Virginia, New York, Alabama, Texas, Maryland, Tennessee and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12568. Authority sought for merger by HOLMES FREIGHT LINES, INC., 7878 "I" St., Omaha, NE 68127, of the operating rights and properties of (1) BYERS TRANSPORTATION COMPANY, INC., and (2) COMMERCIAL FREIGHT LINES, INC., both of 4200 Gardner Ave., Kansas City, MO 64120, and for acquisition by THOMAS FULKERSON, and K. SUSAN EDMUNDS, also of Omaha, NE 68127, of control of such rights and properties through the transaction. Applicants' attorney: Donald L. Stern, 530 Univac Bldg., Omaha, NE 68106. Operating rights sought to be merged: (1) *General commodities* with exceptions, as a *common carrier* over regular routes, between Kansas City, Mo., and St. Joseph, Mo., serving various intermediate and off-route points, between Kansas City, Kans., and East St. Louis, Ill., serving various intermediate and off-route points, with and without restrictions, between Kansas City, and Lake City, Mo., serving intermediate and off-route points within two miles of Lake City, between junction U.S. Highway 40 and Missouri Highway 7, and Lake City, Mo., serving intermediate and off-route points within two miles of Lake City, between Wentzville, and St. Louis, Mo., serving various intermediate and off-route points, between East St. Louis, Ill., and St. Joseph, Mo., between Maryville, Mo., and Omaha, Nebr., serving no intermediate points between Sheridan and St. Joseph, Mo., serving various intermediate and off-route points; *lubricating oils, greases, gasoline, naptha, furniture polish, rubber tires, insecticide liquid, batteries, wax, candies, empty drums, tanks, barrels, and signs*, between Quincy, Ill., and Browning, Mo.; *used empty containers* for fresh meat and packinghouse products, from Booneville, Mo., to Kansas City, Kans.

Petroleum products, in containers, *soap, cleaning compounds, fresh meat* and *packing house products*, in truckload lots, over irregular routes, from Kansas City, Kans., to points in Missouri; *paint, varnish*, and *painters' supplies*, in truckload lots, from Kansas City, Mo., to certain specified points in Kansas; *paper and paper articles*, in truckload lots, from St. Joseph, Mo., to certain specified points in Kansas; *general commodities*, with usual exceptions, between points in Clay, Jackson, and Platte Counties, Mo., and Douglas, Johnson, Leavenworth, and Wyandotte Counties, Kans., between points in that part of Nodaway, Gentry and Worth Counties, Mo., on and east of U.S. Highway 71 and on and west of U.S. Highway 169, on the one hand, and, on the other, Omaha, Nebr., Council Bluffs and Des Moines, Iowa, Kansas City, Kans., Kansas City, Mo., and those points in that part of Iowa on and south of U.S. Highway 34 and on and west of U.S. Highway 169, with restriction; *meats, meat products, and meat by-products and articles distributed by meat-packing houses*, as described in Sections A

and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities, in bulk, in tank vehicles), from the plant site and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to points in Illinois, Iowa, Kansas, Missouri, and Nebraska, with restriction; and (2) *general commodities*, with certain specified commodities, as a *common carrier* over regular routes, from, to, and between specified points in the States of Nebraska, Illinois, Missouri, Iowa, Kansas, Oklahoma, Indiana, Colorado, Wisconsin, Arkansas, and Minnesota, with certain restrictions, serving various intermediate and off-route points, as more specifically described in Docket No. MC 85411 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety thereof. HOLMES FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Iowa, Illinois, and Nebraska. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to MC–F–11835, order dated January 7, 1975, transferee acquired control of transferor.

No. MC–F–12569. Authority sought for purchase by GLOBAL VAN LINES, INC., Number One Global Way, Anaheim, California 92803, of the operating rights and property of MOBILE EXHIBITS, INC., 1790 West Yale Avenue, Englewood, Colorado 80110, and for acquisition by E. W. SCHUMACHER, W. C. MOEN, MAX OLSAN AND D. D. HEYDLAUFF, all of No. One Global Way, Anaheim, CA 92803, of control of such rights through the purchase. Applicants' attorneys: ALAN F. WOHLSTETTER, 1700 K Street NW., Washington, D.C. 20006, and R. Y. SCHUREMAN, 1545 Wilshire Boulevard, Los Angeles, Ca. 90017. Operating rights sought to be transferred: *Electronic and photographic display materials and equipment*, in demonstration trailers with exceptions as a *common* carrier over irregular routes between points in the United States (except Alaska and Hawaii), *Display materials and equipment exhibits*, in demonstration trailers with exceptions between points in the United States (except Alaska and Hawaii). Vendee is authorized to operate as a common carrier in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–12570. Authority sought for purchase by CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804, of the operating rights of SATURN EXPRESS, INC., 7860 F St., Omaha, NE 68127, and for acquisition by RONNIE L. WHITWORTH, AND RICKLY L. WHITWORTH, both of 3034 Carlisle Circle, Springfield, MO 65804, COMMERCE BANK, 1661 Boonville Ave., Springfield, MO 65803, Trustee for FLOYD L. WHITWORTH, of 3034 Carlisle Circle, Springfield, MO 65804, of control of such rights through the purchase. Applicants' attorney: Larry D. Knox, 900 Hubbell Bldg., Des Moines, IA 50309. Operating rights sought to be transferred: *Ceramic tile*, as a *contract carrier* over irregular routes, from the plant sites of and the storage facilities utilized by Mosaic Tile Company, at or near Florence, Ala., and The Marmon Group, Inc., at or near Jackson, Miss., to points in Wisconsin, Michigan, Ohio, Illinois, Indiana, Colorado, Texas, Oklahoma, Kansas, South Dakota, Wyoming, Missouri, Minnesota, Nebraska, and Iowa, from the facilities of Mosaic Tile Company at Ironton, Ohio, to points in Wisconsin, Michigan, Ohio, Illinois, Indiana, Colorado, Texas, Oklahoma, Kansas, South Dakota, Wyoming, Missouri, Minnesota, Nebraska, and Iowa, from Jackson, Miss., to points in Florida, Georgia, Massachusetts, New York, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, from Lexington, N.C., to points in Alabama, Connecticut, Florida, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, New York, Ohio, Tennessee, and Wisconsin, with restrictions; *frozen macaroni products*, and *dry macaroni products*, from Omaha, Nebr., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, Missouri, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and West Virginia; *flour*, in containers, and *corrugated cartons, cellophane, polyethylene paper*, and *dry macaroni products*, from points in the above-named destination States to Omaha, Nebr., with restriction; *tile*, from Lexington, N.C., to points in Alabama, Connecticut, Florida, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, New York, Ohio, Tennessee, and Wisconsin, with restriction; *edible corn products, potato chips, pretzels*, and *dried beef jerky*, (except commodities in bulk), between Omaha, Nebr., on the one hand, and, on the other, Terre Haute, Ind.; *edible corn products* (except commodities in bulk), from Jeffersonville, Ind., to points in Kansas and Nebraska, with restriction. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–12571. Authority sought for purchase by MARTIN TRUCKING, INC., East Poland Avenue, Bessemer, PA 16112, of a portion of the operating rights of WAYNE W. SELL CORPORATION, 236 Winfield Road, Sarver, PA 16055 and for acquisition by W. THAYER MARTIN, also of Bessemer, PA 16112, of control of such rights through the purchase. Applicants' attorneys: HENRY M. WICK, JR. and ALLAN L. FLUKE, 2310 Grant Building, Pittsburgh, PA 15219 and JEROME SOLOMON, 3131 U.S. Steel Bldg., 600 Grant Street, Pittsburgh, PA. 15219. Operating rights sought to be transferred: *Lime*, as a *common carrier* over irregular routes from Branchton, Pa., to points in Ohio, West Virginia, and New York, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin. Application has not been filed for temporary under section 210a(b).

NOTICE

Notice is hereby given by MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, 701 Commerce Street, Dallas, Texas 75202, of the filing with the Interstate Commerce Commission of an application for approval of the acquisition by Missouri-Kansas-Texas Railroad Company to trackage rights over the main track of Southern Pacific Transportation Company between mile post 114.6 and mile post 115.0, approximately one-half mile, all at or near Austin, Travis County, Texas, for use in the make-up or break-up of road trains into and out of the City of Austin. Attorney for applicant is: William A. Thie (Katy), 701 Commerce Street, Dallas, Texas 75202. The application was filed June 6, 1975, and Finance Docket No. 27935 has been assigned to the proceeding. In the opinion of the applicant, the relief sought by this application is not a major Federal action significantly affecting the quality of the human environment. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-National Environmental Policy Act, 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant fac tors set forth in Ex Parte No. 55 (Sub-No. 4), supra Part (b)(1)–(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than August 1, 1975.

Notice is hereby given by SOUTHERN PACIFIC TRANSPORTATION, CO., One Market Street, San Francisco, California 94105, of the filing with the Interstate Commerce Commission of an application for approval of (1) the acquisition by Southern Pacific of trackage rights over the main and auxiliary trackage of Missouri-Kansas-Texas Railroad Company mile post 951.5 and mile post 953.6, and connection at each end thereof, approximately 2.2 miles, all at or near

Austin, Travis County, Texas for use in the make-up or break-up of road trains into and out of the City of Austin. Attorney for applicant is: Tom M. Davis, 3000 One Shell Plaza, Houston, Texas 77002. The application was filed June 6, 1975 and Finance Docket No. 27934 has been assigned to the proceeding. In the opinion of the applicant, the relief sought by this application is not a major Federal action significantly affecting the quality of the human environment. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), Implementation-National Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra Part (b)(1)–(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than August 1, 1975.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-17263 Filed 7-1-75;8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JUNE 27, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 55738, filed June 12, 1975. Applicant: DON'S DELIVERY SERVICE, INC., 1854 Floradale, South El Monte, Calif. 91733. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, Calif. 90010. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (1) *Floor coverings or related articles,* as described under that generic heading in the National Motor Freight Classification; (2) *tile, facing or flooring; and molding, facing, baseboard or cove,* other than metal, as described in that generic heading in the National Motor Freight Classification; and (3) the necessary *tools, adhesives, attachments and supplies* for installation of those commodities set forth in sub-paragraphs (1) and (2) hereof, from, to and within all points and places in the counties of Los Angeles, Orange, San Diego, Riverside, and San Bernardino. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the California Public Utilities Commission, State of California, State Bldg., Civic Center, 445 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Colorado Docket No. 28406—Extension filed June 4, 1975. Applicant: AMICK TRANSFER & STORAGE CO., 1029 Santa Fe Drive, Denver, Colo. 80204. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: a. Transportation of *general commodities,* between points in Denver, Adams, Arapahoe, and Jefferson Counties, Colorado, and between points in said counties on the one hand, and, on the other hand, points in Colorado; and b. Transportation of *household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays and exhibits. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission to establish a branch office, or to have an agent employed for the purpose of developing business at any point outside the Counties of Denver, Adams, Arapahoe, and Jefferson, State of Colorado. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should *not* be directed to the Interstate Commerce Commission.

Colorado Docket No. 28407—Extension filed June 6, 1975. Applicant: BLAKE TRANSFER & STORAGE CO., doing business as UNITED STATES TRANSFER & STORAGE CO., 4200 Garfield Street, Denver, Colo. 80216. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: (a) Transportation of *general commodities,* between points in Adams, Arapahoe, Jefferson, and Denver Counties, and between points in said counties on the one hand, and, on the other hand, points in Colorado. (b) Transportation of *household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays and exhibits; and (c) Transportation of *commodities* which require the use of special equipment in the transportation, loading or unloading thereof, between points in Colorado. Restriction: Transportation of commodities requiring the use of special equipment is restricted against the transportation of liquid commodities in bulk, livestock and bulk cement. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission to establish a branch office or to have an agent employed for the purpose of developing business at any point outside the counties of Adams, Arapahoe, Jefferson, and Denver, State of Colorado. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should *not* be directed to the Interstate Commerce Commission.

Colorado Docket No. 28408—Extension filed June 4, 1975. Applicant: BUEHLER TRANSFER COMPANY, 3899 Jackson Street, Denver, Colo. 80205. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: (a) Transportation of general *commodities,* between points in Denver, Adams, Arapa-

hoe, and Jefferson Counties, Colorado, and between points in said Counties on the one hand, and, on the other hand, points in Colorado; and (b) Transportation of *household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishment; and articles which because of their unusual nature of value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays and exhibits. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission to establish a branch office, or to have an agent employed for the purpose of developing business at any point outside the Counties of Denver, Adams, Arapahoe and Jefferson, State of Colorado. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should *not* be directed to the Interstate Commerce Commission.

Colorado Docket No. 28409—Extension filed June 6, 1975. Applicant: WEICKER TRANSFER & STORAGE COMPANY, 2900 Brighton Boulevard, Denver, Colo. 80217. Applicant's representative: Joseph F. Nigro, 400 Hilton Off. Bldg., 1515 Cleveland Pl., Denver, Colo. 80202. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: (a) Transportation of *general commodities,* between points in Weld, Larimer, Boulder and Morgan Counties, Colorado, and between points in said Counties on the one hand, and on the other hand, points in Colorado; and (b) Transportation of *household goods,* between points in Colorado. Restriction: The term "household goods" as used in this paragraph means personal effects and property used or to be used in a dwelling when part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments; and articles which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, including objects of art, displays and exhibits. Restriction: This entire certificate is subject to the restriction that the operator of this certificate shall not be permitted, without further authority from this Commission to establish a branch office, or to have an agent employed for the purpose of developing business at any point outside the Counties of Weld, Larimer, Boulder and Morgan, State of Colorado. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place scheduled for September 8, 1975, 10 a.m., 500 Columbine Bldg., 1845 Sherman St., Denver, Colo. 80203. Requests for procedural information should be addressed to the Public Utilities Commission of the State of Colorado, Department of Regulatory Agencies, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203, and should *not* be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 31004 (Sub-No. 4). Applicant: TRI CITIES WAREHOUSE, INC., 25 North McCormick, Oklahoma City, Okla. 73127. Applicant's representative: William L. Anderson, 4700 N. Thompson, Oklahoma City, Okla. 73105. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *Contents of box car load shipments,* from rail sidings at or near or trailer delivered, to warehouse operated by applicant. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place application has been assigned for hearing is June 28, 1975, at nine o'clock, a.m. at the Oklahoma Corporation Commission, Jim Thorpe Building, Oklahoma City, Okla. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should *not* be directed to the Interstate Commerce Commission.

Texas Docket No. 2339, filed June 17, 1975. Applicant: ALAMO EXPRESS, INC., P.O. Box 10280, Hackberry Station, San Antonio, Tex. 78210. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78767. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General commodities,* (1) Between junction of State Highway 359 and Farm Road 2050 and the plantsite of Wyoming Mining & Minerals, as follows: From junction of State Highway 359 and Farm Road 2050 over Farm Road 2050 approximately 8.2 miles to unnumbered road, thence westerly over unnumbered road to the plantsite of Wyoming Mining & Minerals, and return over the same route, serving no intermediate points; and (2) Between junction of U.S. Highway 281 and U.S. Highway 59 and the plantsite of Clay West Uranium Plant, as follows: From junction of U.S. Highway 281 and U.S. Highway 59 over U.S. Highway 59 approximately 10 miles to the plantsite of Clay West Uranium Plant, and return over the same route, serving no intermediate points. Coordinating all service listed in routes (1) and (2) with applicant's existing authority, and restricted from serving any other points not authorized to be served in existing certificates Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place, approximately 30 days after publication in the FEDERAL REGISTER. Requests for procedural information should be addressed to the Railroad Commission of Texas, Capitol Station, P.O. Drawer 12967, Austin, Tex. 78711, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-17262 Filed 7-1-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

JUNE 27, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission, July 11, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 15558 (Sub E2), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231-41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* from points in Ohio and Marshall Counties, W. Va., Jefferson, Belmont, Harrison, and Monroe Counties, Ohio, Allegheny, Washington, and Green Counties, Pa., and those points in Ohio, Pennsylvania, and West Virginia within 25 miles of Elm Grove, W. Va., to points in Illinois, Indiana, Kentucky, and Michigan. The purpose of this filing is to eliminate the gateway of Wellsburg, W. Va.

No. MC 15558 (Sub E3), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231-41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* except bulk commodities, from points in Ohio and Marshall Counties, W. Va.,

Jefferson, Belmont, Harrison, and Monroe Counties, Ohio, and those points in Ohio, Pennsylvania, and West Virginia within 25 miles of Elm Grove, W. Va. The purpose of this filing is to eliminate the gateway of Wellsburg, W. Va.

No. MC 15558 (Sub E6), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* except commodities in bulk, from points in Ohio to points in Delaware. The purpose of this filing is to eliminate the gateway of Wellsburg, Ohio.

No. MC 15558 (Sub E8), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products* except commodities in bulk, those points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line and extending along W. Va. State Hwy. 7 to junction U.S. Hwy. 250, thence along U.S. Hwy. 250 to the W. Va.-Va. State line to points in Indiana, Illinois, Kentucky, and Michigan. The purpose of this filing is to eliminate the gateway of Wellsburg, Va.

No. MC 15558 (Sub E9), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* except commodities in bulk, from those points in West Virginia on and west of U.S. Hwy. 19 to points in New York. The purpose of this filing is to eliminate the gateway of Wellsburg, W. Va.

No. MC 15558 (Sub E10), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* except commodities in bulk, from points in Maryland, New Jersey, and Pennsylvania, to points in Kentucky. The purpose of this filing is to eliminate the gateway at Wellsburg, W. Va.

No. MC 15558 (Sub E11), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of paper and paper products, except bulk commodities, from Indiana, Ind., Detroit, Escanaba, and Kalamazoo, Mich., Chicago and Decatur, Ill., to points in Ohio and Marshall Counties, W. Va., Jefferson, Belmont, Harrison, and Monroe Counties, Ohio, Allegheny, Washington, and Greene Counties, Pa., and those points in Ohio, Pennsylvania, and W. Va. within 25 miles of Elm Grove, W. Va. The purpose of this filing is to eliminate the gateway of Wellsburg, W. Va.

No. MC 15558 (Sub E12), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of paper and paper products, except bulk commodities, from Buffalo, N.Y., to points in Ohio and Marshall Counties, W. Va., Jefferson, Harrison, Monroe, and Belmont Counties, Ohio, Allegheny, Washington, and Greene Counties, Pa., and those points in Ohio, Pennsylvania, and W. Va. within 25 miles of Elm Grove, W. Va. The purpose of this filing is to eliminate the gateway of Wellsburg, W. Va.

No. MC 15558 (Sub E21), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, between those points in Ohio on and south of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 50 to junction U.S. Hwy. 35, thence along U.S. Hwy. 35 to junction U.S. Hwy. 68, thence along U.S. Hwy. 68 to junction U.S. Hwy. 40, thence along U.S. Hwy. 40 to the Ohio-Indiana State line, on the one hand, and, on the other, points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Bridgeport, Ohio.

No. MC 15558 (Sub E23), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231–41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* between those points in Ohio on and north of a line beginning at the Ohio-West Virginia State line and extending along U.S. Hwy. 250 to Junction Hwy. 36 thence along U.S. Hwy. 36 to the Ohio-Indiana State line, on the one hand, and, on the other, those points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 50 East to Junction U.S. Hwy. 250, thence along U.S. Hwy. 250 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Bridgeport, Ohio.

No. MC 29886 (Sub E72), filed May 23, 1974. Applicant: DALLAS & MAVIS, 4000 West Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dump bodies,* from those points in Ohio on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Hwy. 30 to junction U.S. Hwy. 30S, to junction Ohio Hwy. 4, to Lake Erie, to those points in Pennsylvania on and east of Interstate Hwy. 81. The purpose of this filing is to eliminate the gateway of Marion, Ohio.

No. MC–29886 (Sub E75), filed May 23, 1974. Applicant: DALLAS & MAVIS, 4000 West Sample Street, South Bend, Indiana 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Machinery,* the transportation of which by reason of size or weight requires the use of special equipment or special handling, except automobiles, trucks, buses, trailers, cabs, and chassis between those points in Ohio on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Hwy. 30 to junction Interstate Hwy. 75, to junction Ohio Hwy. 12, to junction U.S. Hwy. 6, to Lake Erie, on the one hand, and, on the other, points in New Jersey, and between those points in Ohio on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 30 to junction U.S. Hwy. 75, to the Ohio-Michigan State line, on the one hand, and, on the other, the District of Columbia. The purpose of this filing is to eliminate the gateway of Toledo, Ohio, and Centre County, Pa.

No. MC 29886 (Sub-No. E106), filed May 23, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* which, because of size or weight, require the use of special equipment or special handling, and self-propelled articles weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Wisconsin, on the one hand, and, on the other, those points in Indiana (except those on and west of a line beginning at Lake Michigan and extending along U.S. Highway 421 to junction Indiana Highway 43, thence along Indiana Highway 43 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction Indiana Highway 159, thence along Indiana Highway 159 to junction Indiana Highway 241, thence along Indiana Highway 241 to junction U.S. Highway 41, thence along U.S. High-

way 41 to junction Indiana Highway 64, thence along Indiana Highway 64 to the Indiana-Illinois State line, and between points in Indiana (except those in Porter, Lake, Jasper, and Newton Counties), on the one hand, and, on the other, those points in Wisconsin on and north of a line beginning at Lake Michigan and extending along Wisconsin Highway 54 to junction Wisconsin Highway 173, thence along Wisconsin Highway 173 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Wisconsin-Minnesota State line. The purpose of this filing is to eliminate the gateways of points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line extending along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion U.S. Highway 127) to junction U.S. Highway 12, near Somerset Counties, Mich., thence along U.S. Highway 12 to junction U.S. Highway 127, near Somerset, Mich., thence along U.S. Highway 127 to the Michigan-Ohio State line.

No. MC 30446 (Sub E3), filed May 13, 1974. Applicant: BRUCE JOHNSON TRUCKING COMPANY INC., 125 E. Craighead Road, Charlotte, North Carolina 28205. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Washington, D.C. 20032. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, coal, and commodities requiring special equipment, from Charlotte, N.C., and points in North Carolina within 40 miles of Charlotte to points in that part of Georgia bounded by a line beginning at the Georgia-Florida state line and extending in a northerly direction along U.S. Hwy. #17 to Darien, Georgia thence along the northern banks of Altamaha River to the Atlantic Ocean, thence in a southerly direction along the coast line of Georgia to the Florida State line, thence in a westerly direction along the Georgia-Florida State line to intersection with U.S. Hwy. #17 and point of beginning, including points on said Hwy. The purpose of this filing is to eliminate the gateway of Charleston, S.C.

No. MC 33093 (Sub E7), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in Missouri on and north of Hwy. 50, on the one hand, and, on the other, points in Texas on and south of Interstate Hwy. 10, from Louisiana-Texas border to San Antonio and east of Interstate Hwy. 35 from San Antonio to Texas-Mexico border. The purpose of this filing is to eliminate the gateways of Le Flore County, Okla. and Columbia County, Ark.

No. MC 33093 (Sub E12), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, between points in Illinois on and north of Interstate Hwy. 70, on the one hand, and, on the other, points in that part of Texas on and south of a line beginning at the Louisiana-Texas State line and extending along Interstate Hwy. 20 to junction Interstate Hwy. 10, and thence along Interstate Hwy. 10 to El Paso. The purpose of this filing is to eliminate the gateways of Le Flore, Atoka, Choctaw, Haskell, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmata Counties, Okla., and Columbia County, Ark.

No. MC 57778 (Sub-No. E1), filed June 4, 1974. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Avenue, Detroit, Mich. 48209. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Frozen foods and anhydrated foods,* from points in the Upper Peninsula of Michigan in and east of Menominee and Marquette Counties to points in that part of Illinois south of a line beginning at the Indiana-Illionis State line and extending along U.S. Highway 36 to Springfield, Ill., thence along Illinois Highway 125 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 103, thence along Illinois Highway 103 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Missouri State line, and to points in that part of Indiana south of U.S. Highway 40; (2) *frozen foods and anhydrated foods,* from all points in the Upper Peninsula of Michigan to points in Ohio, Kentucky, and West Virginia; (3) *frozen foods and anhydrated foods,* from points in the Lower Peninsula of Michigan on and north of the following described line, beginning at the shore of Lake Michigan at Holland, Mich., thence along Michigan Highway 21 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Michigan Highway 46, thence along Michigan Highway 46 to Saginaw, Mich., thence along Michigan Highway 84 to Bay City, thence along Michigan Highway 247 to the shore of Saginaw Bay, to points in Indiana on and south of U.S. Highway 40, and those in that part of Illinois south of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 36 to Springfield, Ill., thence along Illinois Highway 125 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 103, thence along Illinois Highway 103 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Missouri State line, points in that part of Ohio located on, south and east of a line beginning at the Indiana-Ohio State line and thence along Interstate Highway 70 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 4, thence along Ohio Highway 4 to Lake Erie and points in Kentucky and West Virginia; and (4) *frozen foods and anhydrated foods,* from points in the Lower Peninsula of Michigan on, north and west of a line beginning at the shore at Lake Michigan at Grand Haven, Mich., thence along Michigan Highway 104 to junction Interstate Highway 96, thence along Interstate Highway 96 to Grand Rapids, thence along Michigan Highway 21 to junction Michigan Highway 66, thence along Michigan Highway 66 to junction Michigan Highway 46, thence along Michigan Highway 46 to junction U. S. Highway 27, thence along U. S. Highway 27 to the Straits of Mackinac, to points in that part of Ohio located on north and west of a line beginning at the Indiana-Ohio State line and extending along Interstate Highway 70 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 4, thence along Ohio Highway 4 to Lake Erie. The purpose of this filing is to eliminate the gateway of the facilities of Ore-Ida Foods, Inc., at or near Greenville, Mich.

No. MC 60014 (Sub E4), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which because of size or weight requires the use of special equipment, between points in Wisconsin on the one hand, and, on the other, points in New Hampshire, Rhode Island, those in Massachusetts within 35 miles of Boston and those in Connecticut east of a line beginning at the Connecticut State line and extending along U.S. Highway 5 to junction U.S. Highway 44, to junction Interstate Highway 84, to junction Connecticut Highway 72 to junction Connecticut Highway 17, to junction Connecticut Highway 77 to junction Connecticut Highway 146 to Long Island, Connecticut. The purpose of this filing is to eliminate the gateway of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered Highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, (formerly

portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line, and New York; and Boston, Mass., and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub E9), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which, by reason of their size or weight, require the use of special equipment, between points in Illinois, on the one hand, and, on the other, those points in Ohio east of a line beginning at Lake Erie, and extending along Ohio Highway 13 to junction Ohio Highway 61, thence along Ohio Highway 61 to junction Ohio Highway 98, thence along Ohio Highway 98 to junction Ohio Highway 19, thence along Ohio Highway 19 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 61, thence along Ohio Highway 61 to junction Interstate Highway 71, thence along Interstate Highway 71 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Ohio Highway 93, thence along Ohio Highway 93 to junction U.S. Highway 35, thence along U.S. Highway 35 to Ohio Highway 160, thence along Ohio Highway 160 to the Ohio River. The purpose of this filing is to eliminat the gateways of points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub E11), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of their size or weight, require the use of special equipment, between those points in Illinois south of Interstate 80 and north of a line beginning at Iowa-Illinois State line and extending along Illinois Hwy. 104 to junction Hwy. 67, thence along U.S. Hwy. 67 to junction U.S. Hwy. 36, thence along U.S. Hwy. 36 to the Illinois-Indiana State line, on the one hand, and, on the other, those points in West Virginia north and east of a line beginning at the Ohio-West Virginia State line and extending along Virginia West Virginia Hwy. 20, to junction Hwy. 50, thence along U.S. Hwy. 50 to junction U.S. Hwy. 250, thence along U.S. Hwy. 250 to the West Virginia State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, and Brooke, Hancock, Marshall, and Ohio Counties, W. Va.

No. MC 60014 (Sub E12), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of their size or weight, require the use of special equipment, between those points in Illinois south of a line beginning at the Iowa-Illinois State line and extending along Illinois Hwy. 104 to junction U.S. Hwy. 67, thence along on U.S. Hwy. 67 to junction U.S. Hwy. 36, thence along on U.S. Hwy. 36 to the Illinois-Indiana State line, on the one hand, and, on the other, those points in West Virginia north and east of U.S. Hwy. 250. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, and Brooke, Hancock, Marshall, and Ohio Counties, W. Va.

No. MC 60014 (Sub E13), filed June 4, 1974. Applicant: AERO TRUCKING INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Illinois, on the one hand, and, on the other, those points in West Virginia east of a line beginning at the Ohio-West Virginia State line and extending along West Virginia Hwy. 14, to junction West Virginia Hwy. 5, thence along West Virginia Highway 5 to junction West Virginia Hwy. 4, thence along West Virginia Hwy. 4 to junction U.S. Hwy. 33, thence along U.S. Hwy. 33 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Cambridge and Zanesville, Ohio.

No. MC 60014. (Sub E15), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Illinois south of Interstate 70, on the one hand, and, on the other, those points in West Virginia north and east of a line beginning at the Ohio-West Virginia State line and extending along U.S. Hwy. 50 to junction U.S. Hwy. 250, thence along U.S. Hwy. 250 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Cambridge and Zanesville, Ohio.

No. MC 60014 (Sub E16), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of their size or weight, require the use of special equipment, between those points in Illinois on and north of Interstate 80, on the one hand, and, on the other, those points in Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along Virginia Hwy. 311 to junction Interstate 81, to junction Virginia Hwy. 693, thence along Virginia Hwy. 693 to junction Virginia Hwy. 100, thence along Virginia Hwy. 100 to junction Hwy. 52, thence along U.S. Hwy. 52 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; and Brooke, Hancock, Marshall, and Ohio Counties, W. Va.

No. MC 60014 (Sub E17), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Commodities, the transportation of which, by reason of their weight or size, require the use of special equipment, between those points in Illinois on and north of a line beginning at the Missouri-Illinois State line along U.S. Hwy. 24 to U.S. Hwy. 67, thence along U.S. Hwy 67 to Illinois Hwy. 125, thence along Illinois Hwy. 125 to junction U.S. Hwy. 36, thence along U.S. Hwy. 36 to the Illinois-Indiana State line, on the one hand, and, on the other, those points in Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Hwy. 250 to junction Interstate 95 to junction U.S. Hwy. 460, thence along U.S. Hwy. 460 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateways of Columbia, Cuyahoga, Mahoning, Summit and Trumbull Counties, Ohio, and Brooke, Hancock, Marshall, and Ohio Counties, W.Va.

No. MC 60014 (Sub E18), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Commodities, requiring special equip-

ment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Illinois on and north of a line beginning at the Missouri-Illinois State line and extending along U.S. Hwy. 24 to junction U.S. Hwy. 67, thence along U.S. Hwy. 67 to junction Illinois Hwy. 125, thence along Illinois Hwy. 125 to junction Hwy. 36, thence along U.S. Hwy. 36 to the Illinois-Indiana State line, on the one hand, and, on the other, those points in Virginia on and east of U.S. Hwy. 52. The purpose of this filing is to eliminate the gateways of Cambridge and Zanesville, Ohio, and West Virginia.

No. MC 60014 (Sub E19), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Illinois on and south of a line beginning at the Missouri-Illinois State line and extending along U.S. Hwy. 24, to junction U.S. Hwy. 67, thence along U.S. Hwy. 67 to junction Illinois Hwy. 125, thence along Illinois Hwy. 125 to junction U.S. Hwy. 36, thence along U.S. Hwy. 36 to the Illinois-Indiana State line, on the one hand, and, on the other, those points in Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Hwy. 250 to Interstate 95, thence along Interstate 95 to junction U.S. Hwy. 460, thence along U.S. Hwy. 460 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateway of Cambridge and Zanesville, Ohio, and West Virginia.

No. 60014 (Sub E20), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* the transportation of which, by reason of their size or weight, require the use of special equipment, between points in Illinois on the one hand, and, on the other, points in New Hampshire, Rhode Island, those in Massachusetts within 35 miles of Boston, and those in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending along U.S. Hwy. 202 to junction Connecticut Hwy. 9, thence along Connecticut Hwy. 9 to the Long Island Sound. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Hwy. 83 (formerly U.S. Hwy. 111) to Harrisburg, Penn., thence north along Pennsylvania Hwy. 147 (formerly portion Pennsylvania Hwy 14) to junction U.S. Hwy. 220 (formerly portion Pennsylvania Hwy. 14), thence along U.S. Hwy. 220 to junction U.S. Hwy. 15 (formerly portion Pennsylvania Hwy. 14), thence along U.S. Hwy. 15 to Trout Run, Pennsylvania, thence continuing along U.S. Hwy. 15 to the Pennsylvania-New York State line; New York; and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub E21), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 4315. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Commodities, requiring special equipment, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee or both, between points in Illinois on the one hand, and, on the other, points in Connecticut, New Hampshire, Maine, Rhode Island, those in Massachusetts on and east of U.S. Highway 5, and those in Vermont on and east of a line beginning at the United States International Boundary line and extending along Vermont Highway 105A, to junction Vermont Highway 105, thence along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 15, thence along Vermont Highway 15 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 103, thence along Vermont Highway 103 to junction Vermont Highway 155, thence along Vermont Highway 155 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 8, thence along Vermont Highway 8 to Vermont-Massachusetts State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line; points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn., and Boston, Mass., and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub E22), filed June 4, 1974. Applicant: AERO TRUCKING INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Commodities,* requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Wisconsin, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateways of: (1) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; (2) points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line; points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn. and points in Massachusetts within 35 miles of Boston.

No. MC 61231 (Sub-No. E93), filed May 15, 1974. Applicant: ACE LINES, INC., 4143 E. 43rd St., Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Building materials,* including road building materials, *structural steel and tanks* (except commodities in bulk, commodities requiring special equipment), from Chicago, Ill., and Portage, Ind., to that part of Missouri on and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 69 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateways of points in Indiana within the Chicago, Ill., commercial zone, and Kansas City, Mo.

No. MC 61231 (Sub-No. E94), filed May 15, 1974. Applicant: ACE LINES, INC., 4143 East 43rd St., Des Moines,

Iowa 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel mill products* (except commodities in bulk, and commodities requiring special equipment), from Chicago, and Cicero, Ill., and Gary, Ind., to Ames, Boone, Ft. Dodge, Webster City, Mason City, Perry, Des Moines, Oskaloosa, Chariton, Newton, and Marshalltown, Iowa. The purpose of this filing is to eliminate the gateway of Marshalltown Iowa.

No. MC 61231 (Sub-No. E95), filed May 15, 1974. Applicant: ACE LINES, INC., 4143 E. 43rd St., Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Building materials,* including road building materials, *structural steel and tanks* (except commodities in bulk, and those requiring special equipment), between Omaha, Nebr., on the one hand, and, on the other, Kansas City, Mo., and Kansas City Kans. The purpose of this filing is to eliminate the gateway of points within ten miles of Omaha and Council Bluffs, Iowa in Iowa.

No. MC 61231 (Sub-No. E96), filed May 15, 1974. Applicant: ACE LINES, INC., 4143 E. 43rd St., Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel sheets,* plain, galvanized, or corrugated, *plates,* and *tin plate,* excluding such articles which, because of size or weight require the use of special equipment or special handling and except commodities in bulk, from points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone and St. Louis County, Mo., to points in North Dakota, South Dakota, and Minnesota (except points in that part of Minnesota bounded by a line beginning at the Iowa-Minnesota State line at U.S. Highway 65 and extending along U.S. Highway 65 to Minneapolis, Minn., thence along U.S. Highway 12 to the Mississippi River, thence along the west bank of the Mississippi River to the Iowa-Minnesota State line, thence along the Iowa-Minnesota State line to points of beginning (except points on the segments of U.S. Highways 12 and 65 described above, and except points in the Minneapolis-St. Paul, Minn., commercial zone). The purpose of this filing is to eliminate the gateway of Granite City, Ill.

No. MC 64808 (Sub E59), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 26554. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in that part of Ohio on and south of a line beginning at the Ohio-West Virginia State line and extending over U.S. Hwy. 40 to junction Ohio Hwy. 29, thence over Ohio Hwy. 29, to junction U.S. Hwy. 36, and thence over U.S. Hwy. 36 to the Ohio-Indiana State line, on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending over New York Hwy. 14, to junction New York Hwy. 13 to junction New York Hwy 49, thence over New York Hwy. 49 to junction New York Hwy. 26 and thence over Hwy. 26 to the New York-Lake Ontario Shore. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64808 (Sub E74), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., P.O. Box 507, Fairmont, W. Va. 15219. Applicant's representative: William J. Lavell, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in that part of Ohio on, north and east of a line beginning at the West Virginia-Ohio State line and extending over Ohio Hwy. 148 to junction Ohio Hwy. 9, thence over Ohio Hwy. 9 to Cadiz, Ohio, thence over U.S. Hwy. 250 to junction U.S. Hwy. 20, thence over U.S. Hwy. 20 to junction U.S. Hwy. 23 and thence over U.S. Hwy. 23 to the Ohio-Michigan State line, on the one hand, and, on the other, points in that part of West Virginia on and east of U.S. Hwy. 19. The purpose of this filing is to eliminate the gateway of Marion County, W. Va.

No. MC 64932 (Sub-No. E95) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER, June 9, 1975. Applicant: ROGERS CARTAGE CO., 10735 S. Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from the plant site of Bavid Chemical Industries, Ind., at or near Mapleton, Ill., to those points in Nebraska on and east of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line (plant site of the Hawkeye Chemical Company at or near Clinton, Iowa)*, and Kansas, and those in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line (Pike County, Mo.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above. The purpose of this correction is to change the Sub-No. E85 to (Sub-No. E95).

No. MC 95490 (Sub E1), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* in containers, and *related advertising materials,* from Baltimore, Md., to points in Barnstable, Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, Mass. The purpose of this filing is to eliminate the gateway of Natick, Mass.

No. MC 95490 (Sub E4), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, soda water, carbonic gas,* and *containers therefor,* between Philadelphia, Pa., on the one hand, and, on the other, points in Hartford, Windham, and Tolland Counties. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.).

No. MC 95490 (Sub E5), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 10604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, soda water, carbonic gas,* and *containers therefor,* between points in Rhode Island on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.)

No. MC 95490 (Sub E6), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 10604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, soda water, carbonic gas,* and *containers therefor,* between points in Rhode Island on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.)

No. MC 95490 (Sub E7), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 10604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* in containers, and *related advertising materials,* from Baltimore, Md. to points in

Maine. The purpose of this filing is to eliminate the gateway of Natick, Mass.

No. MC 95490 (Sub E9), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 10604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Middlesex, Essex, and Suffolk Counties, on the one hand, and, on the other, Jersey City, and Philadelphia, Pa. The purpose of this filing is to eliminate the gateway of Springfield, West Springfield, and Newburgh, N.Y.

No. MC 95490 (Sub E10), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Middlesex, Essex and Suffolk Counties, to points in Litchfield County, and Columbia, Dutchess (except Poughkeepsie), Greene, Ulster, and Westchester Counties, N.Y. The purpose of this filing is to eliminate the gateway of Springfield, Mass.

No. MC 95490 (Sub E11), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Middlesex, Essex, and Suffolk Counties, on the one hand, and, on the other, points in Orange County, N.Y. The purpose of this filing is to eliminate the gateway of Springfield, Mass.

No. MC 95490 (Sub E12), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Middlesex, Essex and Suffolk Counties, on the one hand, and, on the other, Poughkeepsie, N.Y. The purpose of this filing is to eliminate the gateway of springfield, Mass.

No. MC 95490 (Sub E13), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, soda water, carbonic gas*, and *containers therefor*, between points in Middlesex, Suffolk, and Essex Counties, on the one hand, and on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.)

No. MC 95490 (Sub E14), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, soda water, carbonic gas*, and *containers therefor*, between points in Middlesex, Suffolk, and Essex Counties, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.).

No. MC 95490 (Sub E15), filed May 31, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, soda water, carbonic gas*, and *containers therefor*, between points in Middlesex, Suffolk, and Essex Counties, on the one hand, and, on the other, points in Connecticut, (except, those in Windsor, Tolland, and New London Counties). The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.).

No. MC 95490 (Sub E18), filed June 14, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Merrimack, to points in Aroostook and Washington Counties, Maine and those in Penobscot, Piscatquis, and Somerset Counties, Maine on and north of Maine Highway 6. The purpose of this filing is to eliminate the gateway of Natick, Mass.

No. MC 95490 (Sub E19), filed June 14, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from New York, N.Y., to points in Maine. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.), and Natick, Mass.

No MC 95490 (Sub E20), filed June 14, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Newark, N.J., to points in Maine. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.) and Natick, Mass.

No. MC 95490 (Sub E21), filed June 14, 1974. Applicant: UNION CARTAGE COMPANY, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in containers, from points in New York (except those points in Saint Lawrence, Franklin, Clinton, Essex, Warren, and Washington Counties), to points in Maine. The purpose of this filing is to eliminate the gateway of points within 15 miles of Springfield, Mass. (excluding Springfield, Mass.) and Middlesex County, Mass.

No. MC 102567 (Sub-No. E16) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER May 22, 1975. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases, in bulk, in tank vehicles), from those points in Texas within 150 miles of Henderson, Tex., including Henderson and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line, to those points in Tennessee east of a line beginning at the Tennessee-Kentucky State line and extending along Tennessee Highway 48 to junction Tennessee

Highway 48, to junction Tennessee Highway 100, to junction Tennessee Highway 20, to junction U.S. Highway 43, to the Alabama-Tennessee State line. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Company at Avondale, La. The purpose of this correction is to correct the commodity description.

No. MC 102567 (Sub-No. E17) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER May 22, 1975. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum gases, in bulk, in tank vehicles), from those points in Texas within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line, to those points in Illinois north of a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 30 to junction Illinois Highway 38, thence along Illinois Highway 38 to Lake Michigan. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Company at Avondale, La. The purpose of this correction is to correct the commodity description.

No. MC 102567 (Sub-No' E18) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER May 22, 1975. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, Houston First Saving Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such petroleum products as are liquid chemicals* (except liquefied petroleum products), in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., including Henderson, and which are south of a line beginning at Chilton, Tex., and extending along Texas Highway 7 to junction U.S. Highway 278, thence along U.S. Highway 278 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line, to those points in Indiana west of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 50 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Company at Avondale, La. The purpose of this correction is to correct the highway description.

No. MC 102616 (Sub-No. E37), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from the District of Columbia, to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, Oklahoma, Texas (except Harris County), and points in Colorado, Wyoming, New Mexico, South Dakota, and North Dakota which are on and east of U.S. Highway 85. The purpose of this filing is to eliminate the gateways of South Charleston, W. Va., and Marshall, Ill., or points within 5 miles thereof.

No. MC 102616 (Sub-No. E38), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from the District of Columbia to points in Iowa, Minnesota, and Wisconsin. The purpose of this filing is to eliminate the gateways of South Charleston, W. Va., and Chicago, Ill.

No. MC 102616 (Sub-No. E43), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from points in the Washington, D.C., commercial zone, to points in North Carolina. The purpose of this filing is to eliminate the gateway of points in York County, Va., which are on and north of U.S. Highway 60.

No. MC 102616 (Sub-No. E47), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from points in Illinois on and north of U.S. Highway 36 to points in Delaware, Maryland, New Jersey, New York, and points in Pennsylvania on and east of U.S. Highway 220. The purpose of this filing is to eliminate the gateway of Kalamazoo, Mich., Akron, Ohio, and the plant sites of Aniline or Solvay divisions of Allied Chemical Co., near Moundsville, W. Va.

No. MC 102616 (Sub-No. E49), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Chicago, Ill., to the District of Columbia and points in Virginia and North Carolina. The purpose of this filing is to eliminate the gateways of Gary, Ind., and Institute, W. Va.

No. MC 102616 (Sub-No. E52), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Chicago, Ill., to points in Kentucky on and east of U.S. Highway 75. The purpose of this filing is to eliminate the gateway of Huntington, Ind.

No. MC 102616 (Sub-No. E57), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Chicago, Ill., to points in Florida. The purpose of this filing is to eliminate the gateways of Kalamazoo, Mich., and Marshall, Ill., or points within 5 miles thereof.

No. MC 102616 (Sub-No. E63), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid petroleum products,* in bulk, in tank vehicles, from Chicago, Ill., to points in Florida, Louisiana, points in New Mexico on and east of U.S. Highway 85 and points in Texas on and south of U.S. Highway 290 (except points in Harris County). The purpose of this filing is to eliminate the gateways of Princeton, Ind., or points within 5 miles thereof, and Marshall, Ill., or points within 5 miles thereof.

No. MC 102616 (Sub-No. E65), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid petroleum products,* in bulk, in tank vehicles, from Crossville, Ill., and points within 5 miles thereof, to points in Florida, Maine, Maryland, Massachusetts, New Jersey, Rhode Island, Delaware, New York, New Hampshire, Pennsylvania, points in North Dakota, New Mexico, and South Dakota which are on and east of U.S. Highway 85, points in Texas on and south of U.S. Highway 290 (except points in Harris County), points in South Carolina on and east of U.S. Highway 1, points in Virginia and West Virginia which are on and north of U.S. Highway 50, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Princeton, Ind., or points within 5 miles thereof, and Marshall, Ill., or points within 5 miles thereof.

No. MC 102616 (Sub-No. E67), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid petroleum products,* in bulk, in tank vehicles, from Forsyth, Ill., to points in Florida, Maine, Maryland, Massachusetts, New Jersey, Delaware, Rhode Island, South Carolina, points in North Carolina on and east of U.S. Highway 21, points in Pennsylvania on and east of U.S. Highway 15, points in Virginia on and south of U.S. Highway 50, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Princeton, Ind., or points within 5 miles thereof, and Marshall, Ill., or points within 5 miles thereof.

No. MC 102616 (Sub-No. E69), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petro-chemicals), in bulk, in tank vehicles, from the plant site of UBS Chemical Co., at Lemont, Ill., to points in Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Midland, Mich.

No. MC 102616 (Sub-No. E70), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petro-chemicals), in bulk, in tank vehicles, from the plant site of UBS Chemical Co., at Lemont, Ill., to points in North Carolina, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Indiana and Institute, W. Va.

No. MC 102616 (Sub-No. E72), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from the plant site of UBS Chemical Co., at Lemont, Ill., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Huntington, Ind.

No. MC 102616 (Sub-No. E75), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid fertilizer solutions, liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from the plant site of Foster Grant Co., at Peru, Ill., to points in New Hampshire and Vermont. The purpose of this filing is to eliminate the gateway of Bay City or Ludington, Mich.

No. MC 102616 (Sub-No. E76), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid fertilizer solutions, liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from the plant site of Foster Grant Co., at Peru, Ill., to points in Rhode Island, Connecticut, Massachusetts, and Maine. The purpose of this filing is to eliminate the gateway of Midland, Mich.

No. MC 102616 (Sub-No. E78), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid fertilizer solutions, liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from the plant site of Foster Grant Co., at Peru, Ill., to points in North Carolina and Virginia. The purpose of this filing is to eliminate the gateways of Cuyahoga, Hamilton, Mahoning, Stark, Summit, or Trumbull Counties, Ohio, and South Charleston or Institute, W. Va.

No. MC 102616 (Sub-No. E79), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry plastic materials,* restricted to petroleum products, in bulk, in tank vehicles, from the plant site of Foster Grant Co., at Peru, Ill., Forsyth, Ill., and Illiopolis, Ill., and points within 5 miles thereof, to points in Maine. The purpose of this filing is to eliminate the gateway of Midland, Mich.

No. MC 102616 (Sub-No. E80), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry plastic materials,* restricted to petroleum products, in bulk, in tank vehicles, from the plant site of Foster Grant Co., at Peru, Ill., Forsyth, Ill., and Illiopolis, Ill., and points within 5 miles thereof, to points in New Hampshire, Vermont, and Rhode Island. The purpose of this filing is to eliminate the gateway of Bay City, Mich.

No. MC 102616 (Sub-No. E81), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Dry plastic materials,* restricted to petroleum products, in bulk, in tank vehicles, from the plant site of Foster Grant Co., at Peru, Ill., and Illiopolis, Ill., and points within five miles thereof, to points in the commercial zones of Washington, D.C., and Baltimore, Md. The purpose of this filing is to eliminate the gateway of Titusville or Neville Island, Pa.

No. MC 102616 (Sub-No. E82), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Dry plastic materials,* in bulk, in tank vehicles, from the plant site of Foster Grant Co., at Peru, Ill., and Illiopolis, Ill., and points within five miles thereof, to points in Maryland, New Jersey, and New York. The purpose of this filing is to eliminate the gateway of Lewistown, Pa.

No. MC 102616 (Sub-No. E86), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from Crossville, Ill., and points within 5 miles thereof, to points in Connecticut, Delaware, Maryland, Massachusetts, Rhode Island, points in Virginia on and north of U.S. Highway 60 and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Ohio on and north of U.S. Highway 40 which are on and west of U.S. Highway 23.

No. MC 102616 (Sub-No. E87), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from Crossville, Ill., and points within 5 miles thereof, to Niagara Falls, Lockport, and Buffalo, N.Y. The purpose of this filing is to eliminate the gateway of Toledo, Ohio.

No. MC 102616 (Sub-No. E88), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from Crossville, Ill., and points within 5 miles thereof, to

points in Kentucky and Ohio. The purpose of this filing is to eliminate the gateway of the terminal/plant site of Texas Eastern Transmission Corp., near Princeton, Ind.

No. MC 102616 (Sub-No. E89), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from Forsyth, Ill., to points in Connecticut, Delaware, Massachusetts, Maryland, Rhode Island, New Jersey, points in Virginia on and north of U.S. Highway 60 and the District of Columbia. The purpose of this filing is to eliminate the gateway of points in the Chicago, Ill., commercial zone which are in Indiana, and points in Ohio on and north of U.S. Highway 40.

No. MC 102616 (Sub-No. E90), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from Forsyth, Ill., to Niagara Falls, Buffalo, and Lockport, N.Y. The purpose of this filing is to eliminate the gateway of points in the Toledo, Ohio commercial zone which are in Michigan.

No. MC 102616 (Sub-No. E91), filed June 3, 1974. Applicant: COASTAL TANK LINES, INC., 215 E. Waterloo Rd., Akron, Ohio 44319. Applicant's representative: Fred H. Daly (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* as defined by the Commission, in bulk, in tank vehicles, from Forsyth, Ill., to points in Kentucky and Ohio. The purpose of this filing is to eliminate the gateway of the terminal/plant site of Texas Eastern Transmission Corporation near Princeton, Ind.

No. MC 105733 (Sub E18), filed April 16, 1974. Applicant: H. R. Ritter Trucking Company, 928 East Hazelwood Avenue, Rahway, New Jersey. Applicant's representative: A. R. Jeltes (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas,* in bulk, in tank vehicles, from points in Hillsborough and Rockingham Counties, N.H., to points in New York (except points in Clinton, Essex, Franklin, Hamilton, St. Lawrence, Warren, Washington, and Saratoga Counties. The purpose of this filing is to eliminate the gateway of Everett, Mass.

No. MC 105733 (Sub E19), filed April 16, 1974. Applicant: H. R. RITTER TRUCKING COMPANY, 928 E. Hazelwood Avenue, Rahway, N.J. Applicant's representative: A. R. Jeltes (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas,* in bulk, in tank vehicles, from points in Maine to points in New York (except from points in Androscoggin, Cumberland, Kennebec, Sagadahoc, York, Penobscot, and Somerset Counties, Maine, to points in Clinton, Essex, Hamilton, and St. Lawrence Counties, N.Y.). The purpose of this filing is to eliminate the gateway of Everett, Mass.

No. MC 109064 (Sub-No. E9), filed June 4, 1974. Applicant: TEX-O-KA-N TRANSPORTATION CO., INC., P.O. Box 8367, Fort Worth, Tex. 76112. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (1) between points in Arkansas on, east, and south of a line beginning at the Missouri-Arkansas State line extending along U.S. Highway 167 to Little Rock, Ark., and thence along U.S. Highway 70 to the Arkansas-Oklahoma State line, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, Montana, and Lea and Eddy Counties, N. Mex.; and (2) between points in Arkansas on and south of a line from Texarkana along U.S. Highway 82 to Magnolia, thence along U.S. Highway 79 to Camden, thence along Arkansas Highway 4 to the Arkansas-Mississippi State line, on the one hand, and, on the other, points in Oklahoma and Kansas. The purpose of this filing is to eliminate the gateway of Texarkana, Ark.-Tex.

No. MC 109064 (Sub-No. E13), filed June 4, 1974. Applicant: TEX-O-KA-N TRANSPORTATION CO., INC., P.O. Box 8367, Fort Worth, Tex. 76112. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Machinery, equipment, materials, and supplies used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewage, including the stringing and picking up of pipe; (1) between points in Louisiana, on the one hand, and, on the other, points in Kansas, Oklahoma, Lea, and Eddy Counties, New Mexico, Colorado, Wyoming, Utah, and Montana; and (2) between points in Arkansas on and south of a line beginning at the Texas-Arkansas State line at Texarkana along U.S. Highway 67 to Little Rock, thence along U.S. Highway 70 to the Arkansas-Tennessee State line at West Memphis, Ark., on the one hand, and, on the other, points in Kansas on and west of a line beginning at the Nebraska-Kansas State line extending along U.S. Highway 81 to the Kansas-Oklahoma State line, points in Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 177 to junction Oklahoma Highway 19, thence along Oklahoma Highway 19 to Ada, thence along Oklahoma Highway 3 to junction U.S. Highway 271, and thence along U.S. Highway 271 to the Oklahoma-Texas State line, and points in Lea and Eddy Counties, New Mexico, Colorado, Wyoming, Utah, and Montana. Restriction: The operations herein authorized are restricted to traffic originating at, or destined to, pipeline rights-of-way. The purpose of this filing is to eliminate the gateways of Texas points on and north of a line beginning at El Paso, Tex., and extending along U.S. Highway 80 to Dallas, thence along U.S. Highway 175 to Jacksonville, thence along U.S. Highway 79 to the Texas-Louisiana State line.

No. MC 109064 (Sub-No. E16), filed June 4, 1974. Applicant: TEX-O-KA-N TRANSPORTATION CO., INC., P.O. Box 8367, Fort Worth, Tex. 76112. Applicant's representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner and accessories* used in the installation of such products, from Mineral Wells, Tex., to Kansas, Nebraska, North Dakota, South Dakota, Colorado, and points in Arkansas in and north of Washington, Madison, Newton, Searcy, Stone, Independence, Craighead, and Mississippi Counties, Ark. The purpose of this filing is to eliminate the gateway of Oklahoma City, Okla.

No. MC 109397 (Sub-No. E38) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER August 29, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Heavy machinery and articles* which require specialized handling or rigging because of their size or weight, and *self-propelled* articles, each weighing 15,000 pounds or more, and *related machinery, equipment, tools, parts, and supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers), between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, North Carolina, and the District of Columbia; between points in the Lower Peninsula of Michigan on and east of U.S. Highway

27, on the one hand, and, on the other, points in Ohio; and between points in the Lower Peninsula of Michigan on and west of U.S. Highway 27, on the one hand, and, on the other, points in Ohio on and east of U.S. Highway 23. The purpose of this filing is to eliminate the gateway of points in Lucas County, Ohio.

No. MC 111401 (Sub-No. E96), filed May 14, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except those used for fertilizers), in bulk, in tank vehicles, from the plant site of Union Carbide Corporation at or near Taft, St. Charles Parish, La., to points in California, Colorado, Minnesota, Nebraska, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 111823 (Sub E1), filed June 4, 1974. Applicant: SHERWOOD VAN LINES, INC., 4322 Milling Road, San Antonio, Tex. 78219. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in Connecticut, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Virginia, on the one hand, and, on the other, Carswell Air Force Base, at or near Fort Worth, Texas, the Naval Air Station at or near Dallas, Tex., and Fort Walters, at or near Mineral Wells, Texas. The purpose of this filing is to eliminate the gateway of Louisville, Ky., or St. Louis, Mo.

No. MC 113495 (Sub-No. E22) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER April 29, 1975. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: Restriction: Restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. Restricted to commodities which are transported on trailers, from points in Ohio (except points in Adams, Brown, Butler, Claremont, Clinton, Darke, Greene, Hamilton, Highland, Lawrence, Mercer, Miami, Montgomery, Pike, Preble, Scioto, and Warren Counties), to that portion of North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to Rockingham, N.C., and thence along U.S. Highway 1 to the North Carolina-South Carolina State line (except points in Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain, and Transylvania Counties). The purpose of this filing is to eliminate the gateway of points in Virginia on and west of U.S. Highway 220. The purpose of this partial correction is to correct the highway description. The remainder of this letter-notice will remain as previously published.

No. MC 113843 (Sub E64), filed December 2, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned foods,* from those points in that part of Maryland on and south of U.S. Highway 40 and east of the Susquehanna River and Chesapeake Bay, to Rochester, Minn., and points in Minnesota (except those points on and south of a line beginning at the Wisconsin-Minnesota State line extending along U.S. Highway 14 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Minnesota-Iowa State line, and Rochester, Minn.). The purpose of this filing is to eliminate the gateway of the plant sites and storage facilities of Duffy-Mott Co., Inc., at or near Hamlin, Holley, and Williamson, N.Y.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-17256 Filed 7-1-75;8:45 am]

[Notice No. 72]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 27, 1975.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, July 17, 1975. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 432TA), filed June 19, 1975. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends,* from Perrysburg, Ohio, to Baltimore, Md., for 180 days. Supporting shipper: Owens Illinois, Inc., P.O. Box 1035, Toledo, Ohio 43666. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 76065 (Sub-No. 27TA), filed June 19, 1975. Applicant: EHRLICH-NEWMARK TRUCKING, CO., INC., 505-509 West 37th St., New York, N.Y. 10001. Applicant's representative: Norman Weiss, 2 West 45th St., New York, N.Y. 10036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wearing apparel* on hangers, *and materials, supplies and equipment* used in the manufacture of wearing apparel, except commodities in bulk, between West Bristol, Pa., and Salisbury, Md., for 180 days. Supporting shipper: Jones, New York, Apparel Division, W. R. Grace & Co., 220 Rittenhouse Circle, Keystone Industrial Park, West Bristol, Pa. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 108207 (Sub-No. 424TA), filed June 6, 1975. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen whole blood* (placenta), from Oakland, Calif., to Detroit, Mich., for 180 days. Supporting shipper: Parke-Davis Co., 5335 Elmridge Ct., Pleasanton, Calif. 94566. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75202.

No. MC 110325 (Sub-No. 66TA) (Correction), filed June 6, 1975, published in the FEDERAL REGISTER issue of June 19, 1975, and republished as corrected this issue. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, Calif. 90245. Applicant's representative: Jerome Biniasz, P.O. Box 92220, Los Angeles, Calif. 90009. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Grand Rapids, Mich., and Muskegon, Mich., including points within its Commercial Zone, and serving the intermediate point of Grand Haven, Mich.; from Grand Rapids, over Interstate Highway 96 to Muskegon, and return over the same route; from Grand Rapids over Michigan Highway 45 to junction Michigan Highway 11, thence over Michigan Highway 11 to junction Interstate Highway 96, thence over Interstate Highway 96 to Muskegon, also over Interstate Highway 96 to junction

U.S. Highway 31, thence over U.S. Highway 31 to Muskegon, and return over the same route; from Grand Rapids over Michigan Highway 45 to junction U.S. Highway 31, thence over U.S. Highway 31 to Muskegon, and return over the same route. Restriction: The operations authorized herein are restricted to shipments transported by carrier to and from points on its authorized routes west of the states of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, for 180 days. Supporting shippers: There are approximately 27 statements of supporting shippers attached to the application, names of which may be secured by contacting Transportation Assistant Mildred I. Price in the Los Angeles Field office at 213–688–4008. Send protests to: Philip Yallowitz, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

NOTE.—Applicant intends to join with its existing authority MC 110325 at Grand Rapids, Mich. The purpose of this republication is to change "regular routes" to "irregular routes" which was previously published incorrect.

No. MC 111729 (Sub-No. 552TA), filed June 16, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Drugs, toiletries,* chemicals, medicines, cosmetics and compressed gas, (1) between points in Washington; (2) between points in Benton, Clackamas, Clatsop, Columbia, Douglas, Lane, Lincoln, Linn, Marion, Multnomah, Tillamook, Washington, and Yamhill Counties, Oreg. Restrictions: (1) Restricted to the transportation of traffic having an immediately prior or subsequent movement by air, rail, or motor vehicle. (2) Restricted against the transportation of shipments weighing in excess of 150 pounds. (3) Restricted to the transportation of traffic moving to and from the facilities of Avon Products, Inc., and/or Fuller Brush Company, for 180 days. Supporting shippers: Avon Products, Inc., 1600 Shamrock S. Monrovia, Calif. 91016. Fuller Brush Company, 7400 N. Caldwell Ave., Niles, Ill. 60648. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 553TA), filed June 16, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delaney (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Hardware, tools, sporting goods, small appliances, pipe fittings and commodities* related to the hardware business, in packages or containers not to exceed 75 pounds each, limited to shipments weighing no more than 225 pounds in the aggregate, between Toledo, Ohio, on the one hand, and, on the other, points in Allegany, Cattaraugus, Cayuga, Chautauqua, Cortland, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Orleans, Oswego, Seneca, Wayne, Wyoming and Yates Counties, N.Y., for 90 days. Supporting shipper: Bostwick-Braun Company, Summit & Monroe Streets, Toledo, Ohio 43692. Send protests to: Anthony D. Biaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112520 (Sub-No. 309TA), filed June 18, 1975. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1107 Blackstone Bldg., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Crude peanut oil,* in bulk, in tank vehicles, from the plantsite of Olin Corporation, in Wakulla County, Fla., to Marion, Ill., and Wolf Lake, Ill., for 180 days. Supporting shipper: Eufaula Cotton Oil Co., P.O. Drawer C, Eufaula, Ala. 36207. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 112539 (Sub-No. 12TA) (Amendment), filed May 28, 1975, published in the FEDERAL REGISTER issue of June 10, 1975, and republished as amended this issue. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811, Hazelton, Pa. 18202. Applicant's representative: Kenneth R. Davis, 121 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Steel reels,* from points in Hazleton, Pa., to points in Middlesex, Mercer, Passaic, Hudson, and Union Counties, N.J.; New Haven and Seymour, Conn.; Providence, R.I.; Hudson, Mass.; and Yonkers and Hastings-on-Hudson, N.Y., for 180 days. Supporting shipper: Hazleton Machine Company, Inc., P.O. Box 397, Hazleton, Pa. 18201. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503. The purpose of this republication is to amend the commodity description to read "steel reels" in lieu of "steel rods."

No. MC 117119 (Sub-No. 542TA), filed June 17, 1975. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 27228. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Photographic materials, supplies, and equipment,* in vehicles equipped with mechanical refrigeration, between the plantsite and warehouse facilities of Agfa-Gevaert, Inc., at Teterboro, N.J., on the one hand, and, on the other, Denver, Colo., Salt Lake City, Utah, Glendale and Brisbane, Calif., and Salem, Oreg., for 180 days. Supporting shipper: Agfa-Gevaert, Inc., 275 North St., Teterboro, N.J. 07608. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118831 (Sub-No. 119TA), filed June 16, 1975. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 5388, High Point, N.C. 27262. Applicant's representative: Gary L. Honbarrier (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Vegetable oil, liquid,* in bulk, from Fayetteville, N.C., to points in Florida, for 180 days. Supporting shipper: Cargill, Incorporated, P.O. Box 1825, Fayetteville, N.C. 28302. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 123233 (Sub-No. 55TA), filed June 20, 1975. Applicant: PROVOST CARTAGE INC., 7887 Grenache Ave., Ville d'Anjou, Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Alcoholic beverages,* in bulk, in tank vehicles, from Baltimore, Dundalk and Relay, Md., to the Ports of Entry on the International Boundary line between the United States and Canada, located on the Niagara River, restricted to the transportation of traffic having an immediate subsequent movement in foreign commerce, for 180 days. Supporting shipper: Joseph E. Seagram & Sons, Inc., 800 Third Ave., New York, N.Y. 10022. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 123407 (Sub-No. 246TA) filed June 17, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass,* from Burns Harbor, Ind., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Maryland, Michigan, Minnesota, Montana, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, for 120 days. Supporting shipper: Associated Imports, Inc., P.O. Box 6487, Providence, R.I. 02904. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 127371 (Sub-No. 2TA), filed June 16, 1975. Applicant: LITTLE PRINCESS TRUCK RENTALS, INC., 7 Juanita Ave., Huntington, N.Y. 11743. Applicant's representative: Jessel Roth-

man, 605 Third Ave., New York, N.Y. 10016. Authority sought to operate as a *contract carrier,* by motor vehicle over irregular routes, transporting: *Merchandise* as dealt in by wholesaler, retail hardware stores, pay checks, store record documents and papers of Pergament Distributors, between points in New Jersey and New York, for 90 days. Supporting shipper: Pergament Distributors, Inc., 101 Marcus Drive, Melville, N.Y. 11746. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 128220 (Sub-No. 15TA), filed June 19, 1975. Applicant: RALPH LATHAM, doing business as LATHAM TRUCKING COMPANY, P.O. Box 508, Burnside, Ky. 42517. Applicant's representative: John M. Nader, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquetts, fireplace logs, lighter fluid, vermiculite and wood chips, and spices and sauces* used in outdoor cooking, from the plantsites and storage facilities of the Kingsford Company at or near Parsons and Ridgeley, W. Va. to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and Wisconsin; (2) *Paper bags,* between the plantsites and storage facilities of the Kingsford Company at or near Burnside, Ky., and Parsons, W. Va., for 180 days. Supporting shipper: Levern N. Forseth, Traffic Manager, Kingsford Company, P.O. Box 1033, Louisville, Ky. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, 216 Bakhaus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 128273 (Sub-No. 187TA) (Correction), filed May 23, 1975, published in the FEDERAL REGISTER issue of June 9, 1975, and republished as corrected this issue. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross 1403 South Horton St., Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper mill products, pulp mill products and materials, machinery, equipment and supplies used in manufacture and/or distribution of paper mill products and pulp mill products* (except commodities in bulk), between the plantsite and storage facilities of Potlatch Corporation in Desha County, Ariz., on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper: Potlatch Corporations, P.O. Box 1016, Lewiston, Idaho, 83501. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202. The purpose of this republication is to correct the commodity description which was previously published incorrect.

No. MC 128273 (Sub-No. 190TA), filed June 17, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Articles of unusual value;* and (2) *Dore bullion;* (1) from Amarillo, Tex., to points in the United States (except Alaska and Hawaii); and (2) from points in the United States (except Alaska, Hawaii and Texas), to Amarillo, Tex., for 180 days. Supporting shipper: Asarco Incorporated, 120 Broadway, New York, N.Y. 10005. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 128273 (Sub-No. 191TA), filed June 17, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Refined copper;* and (2) *materials and supplies* used in the manufacture and distribution of refined copper, from (1) Amarillo, Tex., to points in Wyoming, Idaho, North Dakota, South Dakota, Colorado, Utah, New Mexico, and Nevada; and (2) from points in Wyoming, Idaho, North Dakota, South Dakota, Colorado, Utah, New Mexico, and Nevada to Amarillo, Tex., for 180 days. Supporting shipper: Asarco Incorporated, 120 Broadway, New York, N.Y. 10005. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 128988 (Sub-No. 63TA), filed June 19, 1975. Applicant: JO/KEL, INC., 159 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission and commodities in bulk, from the facilities of Westinghouse Electric Corporation at or near Chicago, Ill., to points in Arizona, California, Nevada, Oregon and Washington. Restrictions: Restricted against the transportation of commodities which by reason of size or weight require the use of special equipment. Further restricted to a transportation service to be performed under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. Supporting shipper: Westinghouse Electric Corporation, R.D. #5 Leger Road, North Huntingdon, Pa. 15642. Send protests to: Mildred I. Price, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 Los Angeles St., Los Angeles, Calif. 90012.

No. MC 128988 (Sub-No. 64TA), filed June 19, 1975. Applicant: JO/KEL, INC., 159 South Seventh Ave., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and utilized by manufacturers or distributors of electric and electronic products and devices, from points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada to the facilities of Westinghouse Electric Corporation at or near North Huntingdon, Pa. Restriction: Restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment. Further restricted to a transportation service to be performed under a continuing contract or contracts with Westinghouse Electric Corporation of Pittsburgh, Pa., for 180 days. Supporting shipper: Westinghouse Electric Corporation, R.D. #5 Leger Road, North Huntingdon, Pa. 15642. Send protests to: Mildred I. Price, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 135170 (Sub-No. 7TA), filed June 20, 1975. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. La Salle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products, plastic products, containers and products* produced or distributed by manufacturers and converters of paper and paper products (except commodities in bulk), from Millville (Cumberland County), N.J., to points in Virginia, North Carolina, and Maryland, under a continuing contract or contracts with Continental Can Company, Inc., for 180 days. Supporting shipper: Donald J. Dorney, Manager of Distribution-Sales Service, Continental Can Company, Inc., 555 Continental Plaza, Three Rivers, Mich. 49093. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Bldg., Baltimore, Md. 21201.

No. MC 135384 (Sub-No. 13TA), filed June 19, 1975. Applicant: SPECIALIZED TRUCK SERVICE, INC., Highway 81 and I–75, McDonough, Ga. 30253. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Ceiling and wall systems, and parts thereof, and accessories and supplies* necessary for the erection and installation thereof, from the plantsites and warehouse facilities of Roblin Building

Products Systems, in Erie, Niagara, and Chautauqua Counties, N.Y., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Roblin Building Products Systems, 1971 Abbott Road, Buffalo, N.Y. 14218. Send protests to: William L. Scroggs, District Supervisor, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 139341 (Sub-No. 4TA), filed June 16, 1975. Applicant: J. J. PERRY, JR., AND EDWARD BAILEY, doing business as P & B TRUCKING COMPANY, R.F.D., Horn Lake, Miss. 38367. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Brewers grain and animal feed,* in bulk, in dump vehicles, from the facilities of Murphy Products Co., at or near Olive Branch, Miss., to points in Georgia and Winston-Salem, N.C., for 180 days. Supporting shipper: Murphy Products Company, Inc., 124 S. Dodge, Burlington, Wis. 53105. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 167 North Main St., 435 Federal Office Bldg., Memphis, Tenn. 38103.

No. MC 140944 (Sub-No. 1TA), filed June 17, 1975. Applicant: JOE P. AVEN, JR., doing business as ZARR TRUCKING COMPANY, 5500 Shellmound Street, Emeryville, Calif. 94608. Applicant's representative: Richard L. McCartney, P.O. Box 1605, San Leandro, Calif. 94577. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Valves, valve components, raw materials for valves and supplies,* between Washoe County, Nev., and the California counties of Alameda, Contra Costa, El Dorado, Los Angeles, Sacramento, San Bernardino, San Francisco, San Mateo, Santa Clara, Santa Cruz, and San Joaquin, for 180 days. Supporting shipper: Grove Valve and Regulator Company, 6529 Hollis St., Emeryville, Calif. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 140963 (Sub-No. 1TA), filed June 16, 1975. Applicant: TRIPLE C ORCHARDS, INC., P.O. Box 1614, Yakima, Wash. 98907. Applicant's representative: Charles C. Flower, 303 East D St., Yakima, Wash. 98901. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lime sludge,* in bulk, from Zillah, Toppenish, and Buena, Wash., to Sublimity, Oreg., for 180 days. Supporting shipper: Siol Conditioners, Inc., P.O. Box 206, Zillah, Wash. 98953. Send protests to: W. J. Huetig, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 140981 (Sub-No. 1TA), filed June 17, 1975. Applicant: LESTER E. WRIGHT, doing business as WRIGHT TRUCKING, P.O. Box 13, Correctionville, Iowa 51016. Applicant's representative: E. A. Hutchinson, 414 Security Bank Bldg., Sioux City, Iowa 51101. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Salvaged compressed car bodies and salvaged scrap copper, brass, and aluminum,* from Sioux City to Beloit and Milwaukee, Wis.; Chicago, Ill.; St. Louis, Mo.; and Kansas City, Kans., to grinding and smelting plants, for 180 days. Supporting shipper: Sioux City Compressed Steel Co., Samuel Bernstein, President, 211 Court St., Sioux City, Iowa 51101. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 141051 TA, filed June 18, 1975. Applicant: EAGLE EASTERN INCORPORATED, 1467 Pinewood St., Rahway, N.J. 07065. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* except in bulk, from the facilities of Eagle Distributors, Incorporated, Rahway, N.J., to Fort Hamilton, Fort Wadsworth and Governor's Island, New York, N.Y., Griffis Air Force Base, Rome, N.Y., Hancock Field, Syracuse, N.Y., Mitchell Field, Garden City, N.Y., Philadelphia Navy Base, Philadelphia Pa., Scotia Navy Base, Scotia, N.Y., Seneca Army Depot, Syracuse, N.Y., Stewart Air Force Base, Newburgh, N.Y., Talcony Army Air Force Exchange, Philadelphia, Pa., Tobyhanna Army Depot, Tobyhanna, Pa., and West Point, N.Y., for 180 days. Supporting shipper: Eagle Distributors, Incorporated, 1467 Pinewood St., Rahway, N.J. 07065. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 141062 TA, filed June 19, 1975. Applicant: ANTONA TRUCKING CO., INC., Route 208, P.O. Box 315, Washingtonville, N.Y. 10992. Applicant's representative: Edward M. Alfano, 550 Mamaroneck Ave., Harrison, N.Y. 10528. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Scrap metal,* loose and baled, in dump, flat and open-top trailers, from Middletown Commercial Zone, Millerton and Stony Point, N.Y., to Jersey City and Newark, N.J., and Macungie, Pa., for 180 days. Supporting shippers: Action Metal Co., Inc., Gate Hill Road, Stony Point, N.Y. Weinert Recycling Co., Inc., R.D. 2 Rt. 211, Middletown, N.Y. 10940. John Brunese & Son, Millerton, N.Y. 12546. Middletown Scrap Iron Co., Inc., 75 Church St., Middletown, N.Y. 10940. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Bldg., Albany, N.Y. 12207.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-17258 Filed 7-1-75;8:45 am]

[Notice No. 64]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a certificate or permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Mawson & Mawson, Inc., MC-76 Sub-2	MC-76 Sub-4	Feb. 13, 1975
Exhibitors Service Co., MC-647 Sub-11	MC-647 Sub-12	Feb. 6, 1975
Transport of New Jersey, MC-3647 Sub-455	MC-3647 Sub-454	Feb. 21, 1975
The Guyott Co., MC-4883 Sub-44	MC-4883 Sub-45	July 18, 1974
Bruce Johnson Trucking Co., Inc., MC-30446 Sub-5	MC-30446 Sub-7	Feb. 27, 1975
L. & M. Express Co., Inc., MC-44639 Sub-77	MC-44639 Sub-78	July 10, 1974
Knight's Express & Warehouse, Inc., MC-44875 Sub-2	MC-44875 Sub-3	July 18, 1974
Schneider Transport, Inc., MC-51146 Sub-325	MC-51146 Sub-332	Feb. 21, 1975
Ellex Transportation, Inc., MC-52460 Sub-151	MC-52460 Sub-153	Feb. 19, 1975
Graves Truck Line, Inc., MC-53965 Sub-92	MC-53965 Sub-16	Feb. 13, 1975
Russell Transfer, Inc., MC-68860 Sub-15	MC-68860 Sub89	July 15, 1974
Henry Edwards Trucking Co., MC-69492 Sub-40	MC-69492 Sub-41	July 3, 1974
Chester Carriers, Inc., MC-76478 Sub-11	MC-76478 Sub-12	July 18, 1974
J. Miller Express, Inc., MC-78228 Sub-38, 39	MC-78228 Sub-37	July 10, 1974
Michigan & Nebraska Transit Co., Inc., MC-82492 Sub-105	MC-82492 Sub-106	Feb. 14, 1975
Puget Sound Truck Lines, Inc., MC-85255 Sub-47	MC-85255 Sub-48	Feb. 26, 1975
Dick Joues Trucking, MC-89716 Sub-48	MC-89716 Sub-49	Feb. 27, 1975
Bonney Motor Express, Inc., MC-94265 Sub-241	MC-94265 Sub-240	July 12, 1974
Allyn Transportation Co., MC-97357 Sub-46	MC-97357 Sub-51	July 15, 1974
Melton Truck Lines, Inc., MC-100666 Sub-269	MC-100666 Sub-272	Feb. 3, 1975
McNair Transport, Inc., MC-102567 Sub-168	MC-102567 Sub-173	Do.
Flect Transport Co., Inc., MC-103051 Sub-309	MC-103051 Sub-312	Feb. 25, 1975
Petroleum Tank Lines, Inc., MC-106127 Sub-9	MC-106127 Sub-10	July 15, 1974
Dart Transit Co., MC-106163 Sub-33	MC-106163 Sub-34	Feb. 28, 1975
Schilli Motor Lines, Inc., MC-106674 Sub-123	MC-106674 Sub-130	Do.
Miller Transporters, Inc., MC-107002 Sub-437, 444	MC-107002 Sub-445	July 16, 1974
Byrd Motor Line, Inc., MC-107934 Sub-23	MC-107934 Sub-24	Feb. 3, 1975
Indianhead Truck Line, Inc., MC-108449 Sub-353	MC-108449 Sub-360	Feb. 18, 1975
Indianhead Truck Line, Inc., MC-108449 Sub-354, 365	MC-108449 Sub-361	July 11, 1974

Temporary authority application	Final action or certificate or permit	Date of action
Indianhead Truck Line, Inc., MC-108449 Sub-364	MC-108449 Sub-352	July 16, 1974
Petroleum Carriers Co., MC-108460 Sub-48	MC-108460 Sub-49	July 12, 1974
L.P. Transportation, Inc., MC-109649 Sub-12	MC-109649 Sub-11	July 3, 1974
Burns Motor Freight, Inc., MC-111785 Sub-57	MC-111785 Sub-58	Feb. 19, 1975
Purolator Courier Corp., MC-112750 Sub-307	MC-112750 Sub-308	Feb. 7, 1975
Curtis, Inc., MC-113678 Sub-542	MC-113678 Sub-554	Feb. 28, 1975
Erickson Transport Corp., MC-113908 Sub-265	MC-113908 Sub-271	July 18, 1974
Trans-Cold Express, Inc., MC-114045 Sub-396	MC-114045 Sub-397	Feb. 28, 1975
Cedar Rapid Steel Transportation, Inc., MC-114273 Sub-140	MC-114273 Sub-134	July 11, 1974
Bitalis Truck Lines, Inc., MC-114274 Sub-26	MC-114274 Sub-27	Feb. 4, 1975
Bankers Dispatch Corp., MC-114533 Sub-288	MC-114533 Sub-298	Feb. 5, 1975
Bankers Dispatch Corp., MC-114533 Sub-290	MC-114533 Sub-299	Feb. 19, 1975
Cyrus Truck Line, Inc., MC-114965 Sub-54	MC-114965 Sub-52	Feb. 27, 1975
Van Tassel, Inc., MC-115036 Sub-22	MC-115036 Sub-23	July 1, 1974
Harold M. Felty, Inc., MC-115181 Sub-32	MC-115181 Sub-33	Feb. 6, 1975
Siegel & Cohen Express, Inc., MC-115278 Sub-2	MC-115278 Sub-1	July 1, 1974
Scari's Delivery Service, Inc., MC-115955 Sub-25	MC-115955 Sub-27	Feb. 12, 1975
Carl Subler Trucking, Inc., MC-116763 Sub-240	MC-116763 Sub-257	Feb. 19, 1975
Scott Transfer Co., Inc., MC-116947 Sub-30	MC-116947 Sub-31	Feb. 4, 1975
Willis Shaw Frozen Express, Inc., MC-117119 Sub-480	MC-117119 Sub-498	Feb. 18, 1975
Willis Shaw Frozen Express, Inc., MC-117119 Sub-483	MC-117119 Sub-490	July 10, 1974
Willis Shaw Frozen Express, Inc., MC-117119 Sub-507	MC-117119 Sub-496	Feb. 18, 1975
Motor Service Co., Inc., MC-117565 Sub-72	MC-117565 Sub-70	July 18, 1974
D.b.a. Dwight Cheek Trucking, MC-117878 Sub-3	MC-117878 Sub-4	Feb. 18, 1975
Arnold Bros. Transport, Ltd., MC-118806 Sub-36	MC-118806 Sub-34	Feb. 14, 1975
Central Coast Truck Service, Inc., MC-119340 Sub-1	MC-119340 Sub-2	Feb. 11, 1975
Morton Truck Lines, Inc., MC-119384 Sub-26	MC-119384 Sub-27	Feb. 14, 1975
Caravan Refrigerated Cargo, Inc., MC-119789 Sub-167	MC-119789 Sub-183	July 3, 1974
D.b.a. Mayer Truck Line, MC-120978 Sub-9	MC-120978 Sub-5	Feb. 26, 1975
D.b.a. Fredonia Truck Line, MC-123056 Sub-2	MC-123056 Sub-1	Feb. 7, 1975
M. L. Asbury, Inc., MC-123074 Sub-8, Sud-9	MC-123074 Sub-10	Feb. 25, 1975
Curtis Transport, Inc., MC-123476 Sub-19	MC-123476 Sub-17	Jan. 20, 1975
Richard Dahn, Inc., MC-124004 Sub-25	MC-124004 Sub-23	Feb. 11, 1975
Schwerman Trucking Co., MC-124078 Sub-550	MC-124078 Sub-558	May 21, 1975
Schwerman Trucking Co., MC-124078 Sub-565	MC-124078 Sub-552	July 16, 1974
Schwerman Trucking Co., MC-124078 Sub-578, Sub 587	MC-124078 Sub-561	Feb. 25, 1975
Chemical Express Carriers, Inc., MC-124236 Sub-59	MC-124236 Sub-67	Feb. 11, 1975
D.b.a. Ruhlman Trucking Co., MC-125518 Sub-3	MC-125518 Sub-5	Feb. 7, 1975
D.b.a. Schaetzel Trucking Co., MC-126111 Sub-4	MC-126111 Sub-5	Feb. 14, 1975
C-B Truck Lines, Inc., MC-128879 Sub-14, 19, 23	MC-128879 Sub-15	July 3, 1974
DuBois Trucking, Inc., MC-129876 Sub-8	MC-129876 Sub-10	Feb. 18, 1975
Thompson Bros., Inc., MC-129974 Sub-8	MC-129974 Sub-9	Feb. 20, 1975
Heyl Truck Lines, Inc., MC-133119 Sub-54	MC-133119 Sub-57	Feb. 12, 1975
Springfield Airport Limousine, Inc., MC-133184	MC-133184 Sub-1	July 11, 1974
Coats Freightways, Inc., MC-133229 Sub-12	MC-133229 Sub-13	Feb. 28, 1975
Stanley L. Berven, MC-133549 Sub-3	MC-133549 Sub-4	Feb. 25, 1975
Gordon Fast Freight, Inc., MC-133684 Sub-6	MC-133684 Sub-10	July 1, 1974
D.b.a. All-Star Transportation, MC-134182 Sub-20	MC-134182 Sub-21	Feb. 19, 1975
Blackburn Truck Lines, Inc., MC-134387 Sub-17	MC-134387 Sub-19	Feb. 27, 1975
B. J. McAdams, Inc., MC-134922 Sub-58	MC-134922 Sub-59	Feb. 25, 1975
American Transport, Inc., MC-134007 Sub-25	MC-135007 Sub-29	July 11, 1974
D.b.a. Wade's Mobile Home Movers, MC-135509 Sub-4	MC-135509 Sub-2	Feb. 18, 1975
Beverage Distributors, Inc., MC-135630 Sub-3	MC-135680 Sub-4	Feb. 4, 1975
D.b.a. Knorr Trucking, MC-135858 Sub-2	MC-135858 Sub-3	Feb. 28, 1975
LTL Perishables, Inc., MC-135874 Sub 4, 5, 20	MC-135874 Sub-13	Feb. 7, 1975
LTL Perishables, Inc., MC-135874 Sub-23	MC-135874 Sub-24	Feb. 26, 1975
Gilbertson Trucking, Inc., MC-136954	MC-136954 Sub-1	July 3, 1974
J. H. Ware Trucking, Inc., MC-138375 Sub-10	MC-138375 Sub-11	Feb. 25, 1975
Gwinner Oil Co., Inc., MC-138575 Sub-3	MC-138575 Sub-4	July 10, 1974
P. & N. Truck Service, Inc., MC-138607	MC-138607 Sub-1	Feb. 4, 1975
U. & R. Express, Inc., MC-138789 Sub-1	MC-138789 Sub-2	July 16, 1974
S.E.S. Trucking, Inc., MC-138866 Sub-1	MC-138866 Sub-2	Feb. 12, 1975
Modie, Inc., MC-138890 Sub-1	MC-138890 Sub-2	Feb. 18, 1975
D.b.a. Gene Eckhardt Trucking, MC-138893 Sub-1	MC-138893 Sub-2	Feb. 5, 1975
Electronic Riggers of Florida, Inc., MC-139163 Sub-1	MC-139163	Do.
Roberts & Oake, Inc., MC-139193	MC-139193 Sub-9	Feb. 7, 1975
D.b.a. Stanage Transportation, MC-139306	MC-139306 Sub-1	Feb. 25, 1975
Fusoni's Express, Inc., MC-139322 Sub-1	MC-139322 Sub-2	Feb. 12, 1975
D.b.a. Nerkick Trucking, MC-139427 Sub-1	MC-139427 Sub-2	Jan. 7, 1975
Merlin Martin Moving & Storage, Inc., MC-139532 Sub-1	MC-139532 Sub-2	Feb. 27, 1975
Lou Cooley & Co., MC-139620	MC-139620 Sub-1	Feb. 21, 1975
D.b.a. Thompson Trucking, MC-139723 Sub-1	MC-139723 Sub-2	Feb. 28, 1975

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17159 Filed 7-1-75;8:45 am]

[Notice No. 65]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a certificate

or permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Tompkins Motor Lines, Inc., MC-20783 Sub-101	MC-20783 Sub-102	Mar. 28, 1975
John T. Sisk, MC-20916 Sub-15	MC-20916 Sub-13	Mar. 21, 1975
Argo-Collier Truck Lines, MC-41404 Sub-114	MC-41404 Sub-115	Mar. 28, 1975
E. Roscoe Willey, MC-44913 Sub-14	MC-44913 Sub-15	Do.
Salt Creek Freightways, MC-59856 Sub-52	MC-59856 Sub-51	Mar. 24, 1975
Salt Creek Freightways, MC-59856 Sub-53	MC-59856 Sub-49	Do.
Aero Trucking, Inc., MC-60014 Sub-36	MC-60014 Sub-37	Do.
Herman Bros. Inc., MC-61396 Sub-245	MC-61396 Sub-254	Mar. 28, 1975
Herman Bros. Inc., MC-61396 Sub-256	MC-61396 Sub-259	Do.
Northern Neck Transfer, MC-95304 Sub-20	MC-95304 Sub-21	Mar. 31, 1975
Watkins Motor Lines, Inc., MC-95540 Sub-904	MC-95540 Sub-906	Mar. 20, 1975
Fleet Transport Co., MC-103051 Sub-290, 291	MC-10305 Sub-297	Do.
Provan Transport Corp., MC-103490 Sub-70	MC-103490 Sub-69	Mar. 26, 1975
Belford Trucking Co., Inc., MC-105813 Sub-195	MC-105813 Sub-196	Mar. 20, 1975
D.b.a. Wiederhold Bros., MC-106893 Sub-16	MC-106893 Sub-17	Mar. 31, 1975
Matlack, Inc., MC-107403 Sub-857, 865	MC-107403 Sub-871	Mar. 25, 1975

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-17160 Filed 7-1-75;8:45 am]

[Notice No. 66]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a certificate or permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Merrill Transport Co., MC-3252 Sub-82, 83	MC-3252 Sub-85	June 2, 1975
Tajon, Inc., MC-5470 Sub-95	MC-5470 Sub-101	Do.
J. V. McNicholas Transfer Co., MC-14552 Sub-54	MC-14552 Sub-51	Do.
Briggs Transportation Co., MC-29555 Sub-71	MC-29555 Sub-75	June 10, 1975
William Z. Getz, Inc., MC-107460 Sub-47	MC-107460 Sub-46	Do.
Ruan Transport Corp., MC-107496 Sub-919, 921, 926, 930, 932, 936	MC-107496 Sub-937	Do.
Freeport Transport, Inc., MC-113666 Sub-73	MC-113666 Sub-76	Do.
Poole Truck Line, Inc., MC-115162 Sub-262	MC-115162 Sub-259	June 2, 1975
Western-Commercial Transport, MC-116063 Sub-134	MC-116063 Sub-135	June 10, 1975
Ringle Express, Inc., MC-119641 Sub-116	MC-119641 Sub-119	June 11, 1975
Ringle Express, Inc., MC-119641 Sub-121	MC-119641 Sub-122	Do.
North Express, Inc., MC-119656 Sub-19	MC-119656 Sub-25	June 2, 1975
Carvan Refrigerated Cargo, MC-119789 Sub-190	MC-119789 Sub-187	June 11, 1975
Steve D. Thompson, MC-121658 Sub-3	MC-121658 Sub-2, 4	Do.
Diamond Transportation System, MC-123048 Sub-303	MC-123048 Sub-302	Do.
Momsen Trucking Co., MC-124174 Sub-96	MC-124174 Sub-97	June 10, 1975
D.b.a. Air Delivery Service, MC-127238 Sub-9	MC-127238 Sub-10	June 11, 1975
D.b.a. R. H. Boelk Truck Lines, MC-127505 Sub-54	MC-127505 Sub-59	Do.
National Materials Corp., MC-128870 Sub-3	MC-128870 Sub-4	Do.
B.L.T. Corp., MC-134349 Sub-7	MC-134349 Sub-8	June 10, 1975
Jim's Truck Service, Inc., MC-138617 Sub-2	MC-138617 Sub-3	June 11, 1975
Snowball, Ltd., MC-138743 Sub-4	MC-138743 Sub-5	Do.
Redway Carriers, Inc., MC-138824	MC-138824 Sub-1	June 10, 1975

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-17161 Filed 7-1-75;8:45 am]

[Notice No. 18]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JULY 1, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before July 22, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75690. By order entered June 19, 1975, the Motor Carrier Board approved the transfer to Paramount Distribution Motor Transportation, Inc., Framingham, Mass., of the operating rights set forth in Certificate No. MC 34513, issued September 28, 1949, and Certificate of Registration No. MC 34513 (Sub-No. 1), issued April 12, 1974, to Howe and Company, Inc., Framingham, Mass., authorizing the transportation of general commodities, between points in Massachusetts. Rudolph Kass, 85 Devonshire St., Boston, Mass. 02109, attorney for applicants.

No. MC-FC-75860. By order of June 20, 1975, the Motor Carrier Board approved the transfer to Paulsen Transfer, Inc., Griswold, Iowa, of Certificates Nos. MC 25908 and MC 25908 (Sub-No. 1), issued July 2, 1942, and March 12, 1943, respectively, to Johnnie F. Paulsen, Griswold, Iowa, authorizing the transportation of General commodities, with exceptions, and livestock, from and to specified points in Iowa and Nebraska. Johnnie F. Paulsen, Griswold, Iowa 51535, for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-17257 Filed 7-1-75;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 89; Amdt. No. 1]

RAILROAD CAR SERVICE

Expiration of Exemption

To all railroads: Upon further consideration of Exemption No. 89 issued November 25, 1974.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 89 to the Mandatory Car Service Rules, ordered in Ex Parte No. 241, be, and it is hereby amended to *expire July 31, 1975.*

This amendment shall become effective June 30, 1975.

Issued at Washington, D.C., June 23, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.75-17266 Filed 7-1-75;8:45 am]

federal register

WEDNESDAY, JULY 2, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 128

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Health Maintenance Organizations

Title 20—Employee's Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Health Maintenance Organizations; Qualifying Conditions

On August 27, 1974, there was published in the FEDERAL REGISTER (39 FR 30935) a Notice of Proposed Rule Making with a proposed amendment to Regulations No. 5 (20 CFR Part 405) regarding the qualifying conditions which organizations must meet to be eligible to enter into a contract with the Secretary of Health, Education, and Welfare as a health maintenance organization (HMO) under the Medicare program (title XVIII of the Social Security Act). This proposed amendment was issued pursuant to the provisions of section 1876 of the Social Security Act (42 U.S.C. 1395mm), which was added to title XVIII by section 226 of Pub. L. 92-603. Section 1876 of the Social Security Act provides for payment to be made on the basis of a single capitation rate for services covered under Medicare that are furnished to Medicare beneficiaries who are enrolled in a qualified organization which has entered into a contract with the Secretary to participate as an HMO under Medicare. Section 1876(b) of the Social Security Act defines an HMO as a public or private organization which: (1) Provides a comprehensive range of health services, either directly or through arrangements with others, on a predetermined periodic rate basis and without regard to the frequency or extent of covered services furnished to any particular enrollees; (2) provides, either directly or through arrangements with others, all services covered under Parts A and B of title XVIII which are available to individuals residing in the geographic area it serves; (3) provides physicians' services through physicians who are employees or partners of the HMO, or through arrangements with groups of physicians, which groups are reimbursed primarily on a per capita or fixed-sum basis; (4) assures that where it provides services under arrangements that such arrangements are, in fact, an effective means of providing services to its enrollees; (5) provides the services of a sufficient number of primary care and specialty care physicians to meet the health needs of its members; (6) has, subject to waiver by the Secretary of up to 3 years, at least one-half of its enrolled members consisting of persons under age 65; (7) can assure that its members receive the services they require promptly and appropriately and that such services meet its standards of quality; and (8) has an open-enrollment period at least annually in which it accepts up to the limits of its capacity on a first-come, first-served basis, those Medicare beneficiaries eligible to enroll, unless to do so would result in failure to meet the enrollment requirement for persons under age 65, or would result in an enrollment substantially nonrepresentative of the population in its area. Section 1876(i)(2)(B) of the Social Security Act also permits an organization which does not fully meet the requirements of section 1876(b) to qualify as an HMO under Medicare provided it has demonstrated to the satisfaction of the Secretary that it is making reasonable efforts to meet fully the requirements of section 1876(b) and meets such basic requirements as the Secretary shall prescribe in regulations.

The regulations draw a distinction between a "mature" HMO and a "developing" HMO. A mature HMO is defined as an organization which is in full compliance with the conditions and applicable standards in the regulations. Where a mature HMO additionally meets operating experience requirements necessary to be eligible for risk-basis payments under Medicare, it may elect to be reimbursed in such a manner or to be reimbursed on a reasonable-cost basis Mature HMO's which do not meet the added requirement necessary to qualify for risk-basis payments are eligible to be paid on a reasonable-cost basis only. A developing HMO is subject to less demanding requirements initially, but must have a reasonable prospect of meeting the qualifications for "mature" status within 3 years of its initial contract. Reimbursement to developing HMO's may only be made on a reasonable-cost basis.

Interested persons were given the opportunity to submit in writing on or before September 26, 1974, any data, views, or arguments on the Notice of Proposed Rule Making and proposed amendment. The comments and suggestions subsequently received, responses thereto, and changes made in the regulations as proposed are discussed below.

Comments were received from a number of sources (including representatives of national, State, and local organizations) interested in the requirements that an organization must meet in order to qualify as an HMO under Medicare. All of the comments received on the proposed regulations have been carefully considered and many comments which suggested clarification of terms and greater specificity of language have, wherever appropriate, been reflected in the regulations as set forth herein. Some comments could not be reflected because they were contrary to requirements of the statute. Several other comments are not reflected in these regulations because they suggested additional provisions that will be dealt with later under separate Notice of Proposed Rule Making covering proposed regulations relating to enrollment; grievance and appeal procedures applicable to HMO's; reimbursement of HMO's; and the contract between an HMO and the Secretary. The most significant comments were the following:

1. *The requirement that an urban HMO must have a minimum enrollment of at least 25,000 members is unrealistic and precludes all but the largest HMO's from qualifying as mature HMO's under Medicare.* The regulations have been revised to allow a developing HMO a period of up to 3 years to attain a minimum enrollment of at least 5,000 members in order to meet the requirement regarding operating experience necessary to qualify for mature status. However, only where a mature HMO also meets the requirements specified in section 1876(i)(2)(A) of the Act (i.e., for urban HMO's, a current minimum enrollment of at least 25,000 members on a prepaid capitation basis and the primary source of health care for at least 8,000 persons in each of 2 years immediately preceding the contract year; and for nonurban HMO's, a current minimum enrollment of at least 5,000 members on a prepaid capitation basis and the primary source of health care for at least 1,500 persons in each of 3 years immediately preceding the contract year), would it have the option of electing to be paid on a risk-basis. If it did not meet these statutory requirements, the HMO could be paid on a reasonable cost-basis only. These revisions are in accord with the language of the statute and, essentially, result in two classes of "mature" HMO's for payment purposes: mature (eligible for reasonable-cost reimbursement only) and mature (eligible for reasonable-cost or risk reimbursement).

2. *The requirement that a developing HMO must provide a prescribed range of services on a prepayment basis to at least 25 percent of the individuals receiving services through its facilities is too strict and may prevent many otherwise qualified prepayment organizations from participating as HMO's under Medicare.* The reasons given in objection to the proposed requirement were that virtually all individual-practice HMO's would be precluded from participating under Medicare as an HMO and that organizations which, for economic or other reasons, find it necessary to devote most of their time to fee-for-service clientele until their prepaid enrollment can be increased, would be hampered by such a requirement. Therefore, the requirement that a developing HMO must provide a prescribed minimum range of services on a prepayment basis to at least 25 percent of the individuals receiving services through its facilities at the time of its initial contract with the Secretary has been deleted. However, in line with the underlying intent of section 226 of Pub. L. 92-603, a developing HMO would still have to furnish a prescribed minimum range of services on a prepaid capitation rate basis to a sufficient number of individuals to provide a reasonable basis for calculating a prospective per capita rate of reimbursement.

3. *The provision that an organization must enroll a minimum of 150 Medicare beneficiaries in order to qualify as a developing HMO is arbitrary and discriminates against organizations which do not currently enroll at least 150 Medicare beneficiaries on a prepayment basis.* Comments were received suggesting that an organization will be reluctant to enroll Medicare beneficiaries on a prepayment basis until it has been assured that it qualifies as an HMO under Medicare.

The requirement for a minimum of 150 Medicare beneficiaries is needed to avoid situations where the Medicare enrollment would be so nominal that payment by Medicare on a capitation basis would be inefficient and uneconomical for both the organization and the Medicare program. Therefore, this requirement is retained in the attached regulations, but in recognition of the problem that some organizations may have in enrolling beneficiaries before they have been notified that they qualify as an HMO, the organization may be given as many as 90 days after the beginning of its initial contract period to meet the enrollment requirement regarding the minimum number of Medicare beneficiaries.

4. *The requirement that an HMO must provide services equivalent to at least 5 full-time physicians should be waived in situations where the HMO has a total enrollment of less than 5,000 members.* The proposed regulations permitted a waiver of the requirement that an HMO provide services equivalent to at least 5 full-time physicians where the HMO is located in a "health scarcity" area and where the number of physicians is reasonable compared to the HMO's enrollment after taking into account the availability of general physicians in the locale. Comments were received suggesting that waiver should also be granted where an organization's enrollment is less than 5,000 members. These comments assumed that a ratio of one full-time physician per 1,000 enrollees would be sufficient to assure appropriate access to quality health care. However, use of such a ratio might result in the HMO's failure to meet the statutory requirement that an HMO provide its Medicare beneficiaries with an adequate mix of primary and specialty-care physicians. Further, in meeting the minimum requirement specified in the proposed regulations, the HMO would not be limited to the number of physicians it employs directly, but could include physicians with which it has arrangements and could include physicians hired on a part-time basis. The requirement is based on the premise that the equivalent of at least 5 full-time physicians would be required to assure that the HMO's enrollees have access to an appropriate mix of primary and specialty-care services and that such services are provided promptly and appropriately by the HMO, as required by section 1876(b) of the Social Security Act. This requirement is also consistent with the accompanying legislative history of the provision which indicates that an HMO should have a sufficient number of physicians to permit it to guarantee access of its members to needed health care services. Therefore, the requirement regarding the minimum number of physicians has been retained in the final regulations, with a waiver contingent only upon a finding that there is a scarcity of physicians in the organization's service area and that the number of physicians retained is reasonable in relation to the organization's total enrollment and the health needs of its members.

5. *HMO's should be required to meet the requirements that are more strict with respect to range of services and access to services.* Comments were received suggesting that the requirements regarding range of services and access to services which are applied to HMO's should be more stringent than those specified in the proposed regulations. There were also suggestions that a developing HMO be required to offer at least the range of services required of mature HOM's before such organizations would be considered eligible to contract with the Secretary as an HMO under the Medicare program. The legislative history makes clear that it was intended that developing HMO's would not be required to furnish as comprehensive a range of services as mature HMO's. It was suggested that HMO's be required to furnish services which the health insurance program does not cover (e.g., preventive services). However, the law provides that HMO's are required to furnish only those services which are covered by the health insurance program. Comments were received suggesting that the law requires a higher standard than the community standard applied in the proposed regulations with respect to "regular hours" access to HMO services (see § 405.2009(a)) and the quality of "outside regular hours service" (see § 405.2009(b)). The statutory provision in question is not specific about the criteria that should be used in these areas. The law requires the HMO to assure that health services "are received promptly and appropriately and that the services * * * measure up to quality standards which it establishes in accordance with regulations." Therefore, the requirement for use of a community standard has been retained.

6. *Several provisions of the proposed regulations are not consistent with those implementing Pub. L. 93–222 (The Health Maintenance Organization Act of 1973).* Several revisions were made in response to comments requesting consistency between the regulations implementing the HMO Act of 1973 and these regulations, which implement section 226 of Pub. L. 92–603. In these regulations, for example, the term "medically underserved area" (which is used in the HMO Act of 1973) has been substituted for the term "health scarcity area" and the standard regarding a written physician agreement applicable to individual-practice HMO's has been revised so that it applies only to services rendered to Medicare beneficiaries enrolled in the HMO.

In addition, the term "qualifying conditions" has been substituted for the term "conditions of participation" which appeared in the Notice of Proposed Rule Making since the term "conditions of participation" refers to the regulatory requirements that must be met by providers of services as defined under section 1861 (u) of the Social Security Act.

To the extent possible, these regulations are now consistent with the provisions of the Health Maintenance Organization Act of 1973 (Pub. L. 93–222) and the regulations issued to implement that Act, published in the FEDERAL REGISTER on October 18, 1974. The regulations set forth herein do not require HMO's to meet the certification requirements of title XIII of the Public Health Service Act in order to be eligible to participate as an HMO under title XVIII of the Social Security Act. These regulations are also consistent with regulations on HMO's issued by the Social and Rehabilitation Service (published in the FEDERAL REGISTER on May 9, 1975).

The amendments as announced under the Notice of Proposed Rule Making (39 FR 30935) are, therefore, adopted with the changes noted and various editorial changes in the interest of clarity.

Additional regulations dealing with HMO's and section 1876 of the Act are being prepared and will be published under separate Notices of Proposed Rule Making. Such proposed regulations will cover such topics as reimbursement, enrollment and disenrollment, grievance and appeals, and the HMO's contract with the Secretary.

(Secs. 1102, 1871, and 1876 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 331, and 86 Stat. 1396; (42 U.S.C. 1302, 1395hh, and 1395mm).

Effective date. These amendments shall be effective August 1, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: May 12, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: June 19, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) is further amended by adding Subpart T to read as follows:

SUBPART T—HEALTH MAINTENANCE ORGANIZATIONS

Sec.

Subpart T—Health Maintenance Organizations

AUTHORITY: Sections 1102, 1871 and 1876, 49 Stat. 647, as amended, 79 Stat. 331, 86 Stat. 1396; (42 U.S.C. 1302, 1395hh, and 1395mm).

§ 405.2001 Health maintenance organizations; general.

(a) *Introduction.* The regulations in this Subpart T set forth the requirements which an organization must meet in order to be eligible to enter into a contract with the Secretary as a health maintenance organization (HMO) under the health insurance program for the aged and disabled (title XVIII). Section 1876 of the Social Security Act, as amended, 42 U.S.C. 1395mm, defines an HMO, for title XVIII purposes, in part, as a public or private organization which provides a comprehensive range of health services, either directly or through arrangements with others, on a predetermined periodic rate or periodic per capita rate basis without regard to the frequency or extent of services furnished to any particular enrollee. The HMO is also required to have effective arrangements for assuring that its members receive needed services promptly and appropriately and that these services are of acceptable quality and are reasonable in cost. There are also a number of specific statutory requirements dealing with the manner in which an HMO provides these services and with fiscal accountability. The specific qualifying conditions which the HMO must meet may be found in § 405.2002–§ 405.2012.

(b) *Types of health maintenance organizations.* HMO's may be distinguished according to their level of development, reimbursement basis, or method of practice.

(1) For purposes of this subpart, a "mature" HMO refers to an organization which meets the statutory definition of an HMO (see section 1876(b) of the Act) and is in full compliance with the qualifying conditions set forth in this subpart. Where a mature HMO also meets the requirements of paragraph (a)(1) or (a)(2) of § 405.2004 which are applicable to the organization, it may elect to contract with the Secretary as either a "risk-basis" or a "cost-basis" HMO (as described in paragraph (b)(4) of this section). A mature HMO which does not meet the applicable requirements of paragraph (a)(1) or (a)(2) of § 405.2004 can only contract with the Secretary on a cost basis.

(2) A "developing HMO" refers to an organization which does not fully meet the requirements applicable to a mature HMO. To qualify as a developing HMO, an organization must demonstrate to the Secretary that it has a reasonable prospect of fully meeting all the requirements for a mature HMO and it must have a planned program which is acceptable to the Secretary and to which it is committed for meeting all of the requirements for a mature HMO within 3 years after the effective date of its initial contract with the Secretary as an HMO under title XVIII. Periodic reviews are conducted by the Secretary or his designate to determine whether the developing HMO is accomplishing its planned program on schedule and, where the HMO has fallen behind schedule, the Secretary determines whether the HMO has made sufficient progress toward meeting the requirements of a mature HMO to warrant a renewal of its title XVIII contract. A developing HMO may contract with the Secretary only on a cost-basis.

(3) The Secretary may extend the period of time beyond the 3 years specified in paragraph (b)(2) of this section, for a developing HMO to qualify as a mature HMO:

(i) Where the HMO documents that it has made every effort to comply within three years of its initial contract as a developing HMO and that it is currently making sufficient progress in meeting applicable qualifying conditions and standards;

(ii) Where the HMO establishes a timetable for meeting the requirements, which is acceptable to the Secretary; and

(iii) Where the HMO meets such requirements as may be set forth by the Secretary for extension of the period of time beyond the three years specified in paragraph (b)(2) of this section.

(4) If a mature HMO, which is eligible to contract with the Secretary on a risk-basis, elects to do so, it shall share with the health insurance program a portion of the savings which accrue where it provides services to its enrollees who are title XVIII beneficiaries at a cost lower than the adjusted average per capita cost, as defined in section 1876(a)(3)(A) of the Act and in this subpart. Savings up to 20 percent of the adjusted average per capita cost shall be apportioned equally between the risk-basis HMO and the Federal Hospital Insurance Trust Fund and/or the Federal Supplementary Medical Insurance Trust Fund. Savings in excess of 20 percent of the adjusted average per capita cost shall be apportioned entirely to such trust funds. Losses incurred by the risk-basis HMO shall be absorbed by such organization, but losses shall be carried forward and offset from savings realized in later years. An organization, either mature or developing, which enters into a cost-basis contract with the Secretary is reimbursed the reasonable cost it incurs in providing covered items and services to its Medi- title XVIII beneficiaries.

(5) An HMO, whether mature or developing, may provide physicians' services under one of the two following approaches:

(i) The "group practice HMO" provides medical items and services primarily through independent practition- employees or partners of the HMO, and who are usually reimbursed on other than a fee-for-service basis, or through physician groups that contract with the HMO and who reimburse physician members on other than a fee-for-service basis. Typically, the group practice physicians share facilities and substantial portions of major equipment and professional, technical, and administrative staff.

(ii) An "individual practice HMO" provides medical items and services primarily through physicians who are emers who practice in their individual offices (or in physician-directed clinics) and who are reimbursed primarily on a fee-for-service basis. Typically, this kind of HMO is sponsored by a medical care foundation or a medical society.

§ 405.2002 Qualifying conditions: General.

An HMO which wishes to contract with the Secretary pursuant to section 1876 of the Act must be able to demonstrate its ability to provide a specified range of comprehensive services efficiently, effectively, and economically to an enrollee population of more than a specified minimum size. An assessment of an organization's eligibility to enter into such a contract will necessarily be based on the organization's ability to enroll members and deliver high quality health services. The qualifying conditions specified in § 405.2003 through § 405.2012 are designed to assure the Secretary of the HMO's ability to fulfill these requirements as provided by section 1876 of the Act. Generally, each qualifying condition is interpreted by a series of standards. Reference to these standards is made by the Secretary or his designate in surveying an HMO to document its activities, to establish the nature and extent of its deficiencies, if any, and, if the Secretary enters into a contract with the HMO, to assess the HMO's need for improvement in relation to the prescribed qualifying conditions. The application of the standard indicates the extent and degree to which an applicant organization is complying with each condition. To qualify as an HMO under title XVIII of the Act, a mature HMO must be in full compliance with all of the qualifying conditions and applicable standards set forth in § 405.2003 through § 405.2012. A developing HMO in order to qualify as an HMO under title XVIII of the Act must be in full compliance with all of the qualifying conditions and standards set forth in § 405.2003 through § 405.2012, except for the standards specified in § 405.2004(a) and § 405.2005(a) and must demonstrate that it is making reasonable efforts, as described in § 405.2001(b)(2), to meet fully the standards in § 405.2004 (a) and § 405.2005(a).

§ 405.2003 Qualifying condition: Compliance with State and local laws.

The HMO, its officers and staff, and its facilities must meet all requirements that may be lawfully imposed by State or local regulatory or licensing authorities.

§ 405.2004 Qualifying condition: Membership.

The HMO must demonstrate that it has operating experience and an enrolled population sufficient to provide a reasonable basis for establishing a prospective per capita reimbursement rate.

(a) *Standard: Operating experience for mature HMO's.* To be eligible to contract as a mature HMO, the organiza-

tion must have a current enrollment of at least 5,000 members on a prepaid capitation basis. In order to be eligible to contract as a risk-basis HMO (see § 405.2001(b)), the requirements regarding operating experience in paragraph (a)(1) or (a)(2) of this section apply:

(1) The organization must have a current enrollment of at least 25,000 members on a prepaid capitation basis, and must have been the primary source of health care for at least the range of health care services described in § 405.2005(b) which were provided to at least 8,000 persons in each of the 2 years immediately preceding the contract year in which it first qualifies as a risk-basis HMO.

(2) Where the organization serves a non-urban geographic area, and has a current enrollment of at least 5,000 members on a prepaid capitation basis, it need not meet the requirements in paragraph (a)(1) of this section if it has provided at least the range of health care services referred to in § 405.2005(b) to at least 1,500 persons in each of the 3 years immediately preceding the contract year in which it first qualifies as a risk-basis HMO. For purposes of this section, a non-urban HMO is an organization:

(i) Whose service area is located in a non-metropolitan county (i.e., a county with fewer than 50,000 inhabitants); or

(ii) Whose normal service area includes at least one such county, or

(iii) Whose service area is located outside a metropolitan area and whose facilities are within reasonable travel distance of fewer than 50,000 people.

In assessing what is a reasonable travel distance primary consideration will be given to the actual availability of services and general community standards in securing health services.

(3) Where an organization is a subdivision or subsidiary of a mature HMO which meets the requirements of paragraph (a)(1) or (a)(2) of this section, such subdivision or subsidiary need not demonstrate that it meets such requirements as an independent unit if the mature organization assumes responsibility for the financial risk and adequate management and supervision of health care services rendered by such a subsidiary. Also, two or more independent organizations may combine through merger or effective affiliation arrangements in order to satisfy the minimum enrollment standard specified in paragraph (a)(1) or (a)(2) of this section.

(b) *Standard: Operating experience for developing HMO's.* To contract as a developing HMO (see § 405.2001(b)), the organization must provide at least the range of services referred to in § 405.2005(b) on a prepaid capitation rate basis to a sufficient number of individuals to assure the Secretary that there is a reasonable basis for determining a prospective per capita rate of reimbursement or have some other method acceptable to the Secretary of providing a sound basis for making proper cost projections.

(c) *Standard: Composition of enrollment.* In addition to meeting the requirements of paragraph (a) or (b) of this section, HMO's, whether mature or developing, must meet the following standards with respect to the composition of their enrollment:

(1) At least 50 percent of the HMO's membership must be under age 65. However, this requirement may be waived by the Secretary where:

(i) The requirement would result in enrollment of enrollees substantially nonrepresentative of the population in the geographic area served by such HMO, or

(ii) The organization presents a plan which satisfies the Secretary that it will meet this requirement within 3 years after it enters into its initial contract with the Secretary and the HMO demonstrates each year that it is making continuous efforts and progress towards achieving compliance with the requirement within such three-year period by holding open enrollment periods and taking other steps as necessary.

(2) No more than 50 percent of the organization's members may be beneficiaries (or recipients) of the health benefit programs established by titles V, XVIII, and XIX of the Act; however, this requirement may be waived by the Secretary where:

(i) The organization presents a plan which satisfies the Secretary that it will meet such requirements within 3 years after it enters into its initial contract with the Secretary and the HMO demonstrates each year that it is making continuous efforts and progress toward achieving compliance with this requirement within such 3-year period by holding open-enrollment periods and taking other steps, as necessary; or

(ii) Beneficiaries of such programs comprise more than fifty percent of the population of the geographic area served by the organization and the HMO's enrollment of such beneficiaries is not substantially nonrepresentative of the concentration of such beneficiaries in such geographic area; or

(iii) The organization otherwise shows good cause for a waiver of this requirement.

(3) The organization must provide at least the range of services it is required to furnish pursuant to § 405.2005 to a minimum of 150 title XVIII beneficiaries. The Secretary may grant an organization a period not to exceed 90 days after the beginning of its initial contract period within which to comply with this requirement where the organization can demonstrate to the satisfaction of the Secretary that it has taken (or will take) steps which can reasonably be expected to result in an enrollment of at least 150 title XVIII beneficiaries within the period granted for compliance.

(d) *Standard: Open enrollment.* An HMO will enroll title XVIII beneficiaries on a first-come, first-served basis, up to the limit of its capacity, and will hold an open enrollment period not less than annually for such beneficiaries on that basis. This requirement may be waived by the Secretary where the organization's compliance would result in a failure to meet the requirements of § 405.2004(c)(1) or would result in a membership which is substantially nonrepresentative of the population in the area it serves. For purposes of this subpart, a subgroup of enrollees is generally not considered to make the membership substantially nonrepresentative unless its proportion among all the HMO's enrollees exceeds by at least 10 percentage points its proportion in the general population in the same enrollment area (see § 405.2005(a)(1)), based on such census and other data as the Secretary finds appropriate.

§ 405.2005 Qualifying condition: Range of services.

(a) *Standard: Range of services provided by mature HMO's.* The mature HMO (see § 405.2001(b)) must provide a comprehensive range of services which meets the following criteria as to scope and area:

(1) The mature HMO must provide, directly or through arrangements with others (see § 405.2006), all of the items and services covered under the health insurance program (see Subparts A and B of this part) which are available to individuals (non-enrollees) residing in the HMO's service area. For purposes of this subpart, an HMO's service area is defined as the geographic area in which the organization offers its full range of services to its enrollees. It should be distinguished from an HMO's enrollment area (i.e., the geographic area encompassing the permanent residences of its enrollees) which may include locations outside the organization's service area where it offers less than its full range of services. The Secretary will determine whether a service is available to patients residing in an HMO's service area on the basis of all relevant facts, including whether part or all of the HMO's service area has been designated as a medically underserved area, or where it is otherwise determined by the Secretary that there is a scarcity of covered items and services or qualified personnel to provide them. A "medically underserved area" for purposes of this subpart is one which the Secretary, taking into account comments made, if any, by the appropriate State or areawide planning agency, has formally designated as having a scarcity of one or more basic types of health services, e.g., physicians' services and inpatient hospital services.

(2) Even though a particular item or service covered under the health insurance program is not available from physicians, suppliers, or providers of services which are located in the HMO's service area, the organization must be responsible for arranging and paying for such covered items or services if patients in its service area (other than enrollees of the organization) are commonly referred for such services, when needed, to sources outside the area. In such a case, the HMO must meet the requirements specified in

§ 405.2006 for effective arrangements for providing such covered items or services.

(3) The mature HMO must, except as provided for in paragraph (a)(4) of this section, also assume financial responsibility and provide reasonable reimbursement for all medically necessary covered items and services obtained by its enrollees from physicians, suppliers, or providers of services outside the HMO, even in the absence of the organization's prior approval, where such services are:

(i) Emergency services: Emergency services, for purposes of this subpart, are covered inpatient or outpatient medical and other services provided by an appropriate source within or outside the HMO's service area, which may not be delayed until facilities or suppliers of services of the HMO (or alternatives authorized by the HMO) can be used without possible serious effects on the health of the patient. Such services be or must appear to be needed immediately to prevent the death of the enrollee or serious impairment of his health, and are considered emergency services as long as the transfer of the enrollee to the appropriate provider of services of the HMO (including those with which the HMO has an arrangement) or an alternative designated by the HMO is precluded because of the risk to the enrollee's health, or the distance and nature of illness involved would make such transfer unreasonable;

(ii) Urgently needed services: Urgently needed services are covered services which enrollees require in order to prevent a serious deterioration in their health while they are temporarily absent from the HMO's service area. While the immediacy of need for these services is not as great as it is for emergency services, the medical need is such, however, that the provision of medical services cannot be delayed until the enrollee returns to a place where he would reach the HMO's services. In this context, the term "temporarily absent," refers to circumstances, such as a vacation trip, where the enrollee has left the health maintenance organization's service area, but intends to return within a reasonable period of time. An enrollee whose primary place of residence is in either the HMO's service area or enrollment area, but who resides in a temporary home elsewhere for a number of weeks up to a reasonable limit that may be established by the HMO, would also be considered temporarily absent from the HMO's service area during those periods of time when such an enrollee is residing in the temporary home; or

(iii) Services which are found upon appeal by the beneficiary under the provisions of section 1876(f) of the Act (42 U.S.C. 1395mm(f)) to be services which the beneficiary was entitled to have furnished to him by such HMO.

(4) A mature health maintenance organization (see § 405.2001(b)) which either is not eligible to be paid on a risk-basis because it does not meet the requirements regarding operating experience set forth in paragraph (a)(1) or (a)(2) of § 405.2004, or is eligible for risk-basis payment but elects to be paid on a cost-basis, is not required to assume financial responsibility for any services its enrollees who are title XVIII beneficiaries receive which are:

(i) Emergency services (see paragraph (a)(3)(i) of this section) or

(ii) Urgently needed services (see paragraph (a)(3)(ii) of this section) or other covered items or services received outside the HMO's service area by its enrollees who are title XVIII beneficiaries (but not including those described in paragraph (a)(2) of this section). Covered items or services which the beneficiary receives from physicians, suppliers, or providers of services outside the HMO and for which the HMO does not assume financial responsibility are reimbursable under the regular health insurance program.

(5) In providing items and services where more than one category of practitioner is qualified to provide the item or service, the health maintenance organization may select the type of practitioner to be used.

(b) *Standard: Range of services provided by developing HMO's.* A developing HMO must provide at least the following services to its enrollees who are title XVIII beneficiaries: inpatient hospital services; physicians' services; diagnostic X-ray, laboratory and other diagnostic tests; and ambulance services. A contract with a developing HMO is renewed only if the Secretary finds that it is making reasonable efforts to provide all covered items and services available in its service area (see § 405.2001(b)).

§ 405.2006 Qualifying condition: Effective arrangements.

An HMO which provides services covered under title XVIII to its enrollees through arrangements (i.e., arranged-for services) with physicians, suppliers or providers of services other than those owned, operated, or controlled by the HMO must demonstrate that such arrangements are, in fact, an efficient, effective, and economical means of providing services to its enrollees. Organizations which furnish services to their enrollees who are title XVIII beneficiaries through arrangements are required to provide sufficient management and coordination to assure that the full range of covered care is provided. In assessing the organization's compliance with this condition, the Secretary will consider the manner in which similar services are generally provided in the community and the individual circumstances of the HMO's organizational and staffing structure. This assessment will be based on the following standards:

(a) *Standard: Form of arrangements.* Arrangements for services must, to the extent possible, be in writing. Where the arranged-for services obtained from any one party represent a significant cost to the organization, the organization shall demonstrate to the Secretary the steps it has taken to secure a written agreement and, where applicable, the reasons for continuing without a written agreement.

(b) *Standard: Content of arrangements—Method of compensation.* Where an organization furnishes services through arrangements, such arrangements shall include, but not be limited to, an appropriate system which establishes reasonable remuneration and discourages the provision of unnecessary services. For example, arrangements with groups of physicians should provide for reimbursement for services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of how the group remunerates individual physician members. Further, the HMO's reimbursement of physicians or groups of physcians should not result in a level of physicians' compensation, including any incentive payment, that is substantially in excess of what would normally be paid for similar services by similar physicians regardless of the method of compensation. (See section 1876(a) of the Act.)

(c) *Standard: Coordination of arrangements to assure access to and continuity of care.* The HMO must demonstrate to the Secretary that it has achieved adequate coordination of the services provided through arrangements as well as coordination between those services provided directly, and those provided through arrangements, so as to assure access to and continuity of quality care (see §§ 405.2007, 405.2008, 405.2009, and 405.2011).

(d) *Standard: Application to individual practice HMO's.* An individual practice HMO (as defined in § 405.2001(b)(5), or a group of physicians under contract with such HMO) must have a written agreement with each physician participating in the organization who provides services to its enrollees who are title XVIII beneficiaries. Such an agreement must provide at a minimum:

(1) A description of the organization's method of reimbursing the individual physician, including its method of distributing savings or losses, or other forms of incentives encouraging appropriate utilization as required by paragraph (b) of this section;

(2) The physician's acceptance of the organization's payment as payment in full for covered title XVIII services provided to the organization's Medicare enrollee who is a title XVIII beneficiary;

(3) That the physician cooperate with other physicians and institutions or suppliers of services to provide continuity of care required by paragraph (c) of this section; and

(4) That the physician provide to the organization records (see § 405.2009(d)(2)) needed to monitor the quality of care and the appropriateness of reimbursement for services furnished its enrollees who are title XVIII beneficiaries, including data needed to develop statistical profiles or to carry out effectively any provision of the contract or regulations.

§ 405.2007 Qualifying condition: Physician staffing and supervision of health services.

An HMO must provide either directly or through arrangements with others the

services of a sufficient number and type of primary-care and specialty-care physicians to meet the health care needs of its enrollees. Further, there must be physician involvement and supervision in the provision of health services to provide reasonable assurance that the skill level appropriate to the case is used.

(a) *Standard: Number and types of physicians.* An organization must have on its staff (or provide through arrangements as described in § 405.2006) primary care and specialty care physicians in adequate numbers and types to meet the health care needs of its patients, but no less than the equivalent of five full-time physicians who are actively involved in patient care and accountable to the organization for the adequacy of service. The requirement that an organization have the equivalent of no less than five full-time physicians may be waived by the Secretary where an HMO is located in a medically underserved area (see § 405.2005(a)(1)) or where it is otherwise determined that there is a shortage of covered services available in the HMO's service area, and the number of physicians is reasonable in relation to enrollment, taking into account general physician availability in the locale and the health care needs of its members.

(1) For purposes of this subpart, a primary care physician is one who has the responsibility for initial treatment or screening of patients. For example, such a physician could be a general practitioner, a family-practice specialist, or, for certain groups of patients, a specialist in pediatrics, internal medicine, or obstetrics-gynecology. The primary care physician in the HMO setting is distinguished by his referral of patients to other specialized physicians, rather than by limitations on his number of encounters with patients or his own degree of specialization.

(2) For purposes of this subpart, a specialty care physician is one who is:

(i) Certified or eligible for certification by one of the specialty boards of the American Board of Medical Specialists, or by one of the specialty boards approved by the American Dental Association; or

(ii) Who is not board-certified or eligible for certification but who has, over a period of time, practiced a specialty and who has:

(A) Acquired substantial equivalence in education, and experience in the specialty area;

(B) Established a record of demonstrated proficiency in the specialty; and

(C) Received recognition by other physicians in the area as a qualified source of specialty services by their continuing referrals of patients to him for such specialty services.

(b) *Standard: Physician involvement in management decisions which affect patient care.* In the conduct of those administrative activities that have a significant bearing on patient care, the physician staff (or physicians or physician groups providing services through arrangements) shall be consulted by the organization's management for its professional judgment. Arrangements may be formal, such as a joint management-staff committee, or informal, such as ad hoc meetings.

(c) *Standard: Physician supervision of other health care professionals.* The organization's health delivery system and its division of responsibilities must provide for physician supervision of other health care professionals who are directly involved in the provision of health care. For purposes of this subpart, the term "other health care professionals" refers to those paramedical, ancillary, and other nonphysician personnel who are engaged in the delivery of health services. Furthermore, the system must assure that, to the extent feasible, physicians use and supervise other health care professionals, and limit the activities of these personnel to only those that they may legally and competently perform in their respective professions.

§ 405.2008 Qualifying condition: Assurance of quality of care.

The HMO assures that the physicians and other health care professionals it uses, whether supplying services directly or through arrangements, are capable and competent to carry out their assigned activities and that the providers of service it uses meet the applicable conditions of participation under Medicare.

(a) *Standard: The HMO must have physician staff standards.* The HMO is required to have written medical staff standards which, at a minimum, include requirements governing the recruitment, hiring, where applicable, and retention of physicians or groups of physicians furnishing services to HMO enrollees through arrangements with the HMO. The requirement for retention of physicians must be consistent with the requirements in § 405.2011 relating to the HMO's ongoing review of patent care and should provide for appropriate use of methods for determining, on the basis of recent experience, whether a physician is providing services of sufficient quality and at reasonable cost.

(b) *Standard: Conformance with Medicare conditions of participation and conditions for coverage.* Where items or services are provided by a hospital, skilled nursing facility, home health agency or a provider of outpatient physical therapy services, such provider of services must meet the applicable conditions of participation as described in Subparts J, K, L, and Q. Similarly, where services are provided by independent laboratories or portable X-ray suppliers, such laboratories or suppliers must meet the applicable conditions for coverage, as set forth in Subparts M and N of this part.

(c) *Standard: Qualification of other health care professionals.* An organization must have written requirements detailing the experience and educational qualifications for those categories of other health care professionals it employs who render medical services. The HMO must also provide written instructions for use by such health care professionals, as necessary, and take into account any legal limitations on their use as set by State or local law. The latter may be accomplished through formal job descriptions.

§ 405.2009 Qualifying condition: Access to services.

The HMO assures that health services required by its enrollees are received promptly and appropriately, that there is continuity of the care provided the enrollees, and that it maintains an efficient medical records system.

(a) *Standard: Regular hours.* An HMO, with respect to all services it furnishes, whether direct or through arrangements, must provide for regular hours during which such services can be received. It is also required to have an orderly and systematic system for scheduling the provision of services to enrollees in a timely manner, taking into account the immediacy of need for services. The standard for assessing the adequacy of this system and that described in paragraph (b) of this section will be the access which individuals who are not enrollees of the HMO have to such services in the HMO's service area.

(b) *Standard: Availability of services outside of regular hours.* The HMO must have a system for providing the enrollee with 24-hour access to a physician in cases where there is an immediate need for medical services. To meet this requirement, the organization's arrangements for off-hour services may provide for access to non-HMO physicians and facilities (e.g., hospital emergency rooms), if it is demonstrated that such arrangements will not impair the continuity of the enrollee's care and will not prevent the organization from meeting its obligation to provide its enrollees with necessary services that are convenient, timely, and of a quality that is reasonable compared to that available to others in its service area. Where such non-HMO physicians and facilities are used, the health maintenance organization must develop procedures assuring that it is notified of such services and that it receives adequate documentation from the non-HMO facility.

(c) *Standard: Continuity of care.* The organization is responsible for fostering continuity of the care of its members. Basic responsibility for continuity of care, including referral for specialty and other medical services, rests with its physicians. The following criteria will be used to assess the effectiveness of the HMO's compliance with the standard:

(1) The HMO must achieve a sufficient degree of stability in its physician staff, as measured by the extent of physician turnover, to permit the assumption that a reasonable degree of continuity of care is possible.

(2) The HMO must give each enrollee an opportunity to select a primary physician, i.e., a physician who will have overall responsibility for the patient's care.

(3) Where the HMO provides services directly to its enrollees at several locations, it must insure through the coordination of medical records, referred to in paragraph (d) of this section, and

the use of other appropriate operating procedures that the services it furnishes at those various contact points are organized in such manner as to facilitate continuity of care.

(d) *Standard: Organization of medical records.* The HMO is required to maintain a logical and efficiently organized medical record for each enrollee (or family) and to assure that the confidentiality of such records is protected. This standard will be met only if the HMO satisfies paragraph (d)(3) and either paragraph (d)(1) or (d)(2) of this section.

(1) The HMO's record system must be unified (i.e., a unit record system or an alternative system which provides for unified records) and contain a description of all significant services provided its enrollees either directly by the HMO or through arrangements with others and findings, made with respect to such services to the extent such information is known and can be assembled at a reasonable cost. The information entered into the HMO's medical record system must be retained up to 3 years after the date of the final cost settlement with the HMO (see section 1876(a) of the Act) unless otherwise specified in this subpart.

(2) Where ambulatory care is regularly provided at more than one location (e.g., in the cae of individual practice HMO's), and the maintenance of a unified system would result in excessive duplication costs, the enrollee's record may be retained at a primary ambulatory care point if a plan for the interchange of medical record data with secondary care points has been developed. Such a plan must make records available to the attending or consulting physician when the enrollee requires further services, or when a periodic review of the patient's record is appropriate. To the extent possible, an HMO meeting this requirement must organize its medical records system in such a manner as to assure:

(i) That the primary physician referred to in paragraph (c)(2) of this section establishes adequate medical records for each enrollee to whom he provides services and obtains reports prepared by other physicians as may be needed by the HMO to provide care, respond to patient requests for information or carry out its responsibilities for providing patients with adequate access to needed services;

(ii) That upon referral of the enrollee by the primary physician to other physicians or to a provider, the HMO will promptly transmit X-rays, reports of tests, and other pertinent data about the patient; and

(iii) That the physician submits, when requested, the medical records on those cases which are being analyzed under the HMO's system of peer review (as described in § 405.2011).

(3) All information contained in the medical records specified in either paragraph (d)(1) or (d)(2) of this section must be treated as confidential and disclosed only to authorized persons. The HMO must establish adequate procedures for assuring such confidentiality is properly maintained and safeguarded.

§ 405.2010 Qualifying condition: Grievance procedures.

The HMO is required to have an internal grievance system for handling complaints of its enrollees who are title XVIII beneficiaries which at a minimum:

(a) Facilitates the submission of complaints which its enrollees may have;

(b) Provides for a full investigation of the complaint and assures that appropriate action is taken promptly in every case;

(c) Provides for notification of the enrollee as to the results of the HMO's investigation and, unless the HMO has received approval from the Secretary to process grievances under an alternative procedure, his right to a higher internal grievance level where he is dissatisfied with the HMO's action;

(d) Provides data on the number and types of complaints filed and the manner in which they were resolved; and

(e) Provides for periodic management review of the data specified in paragraph (d) of this section to assure that appropriate corrective actions have been taken and that the problems which led to the complaints have been eliminated.

§ 405.2011 Qualifying condition: Ongoing program review of services provided.

The HMO has a written review plan and an adequate information system that, while safeguarding the confidentiality of such information, assures that the health services it provides to its enrollees meet or exceed professionally-accepted levels of quality and is designed in such a way as to meet the applicable requirements of section 249F of Pub. L. 92-603 and related regulations concerning Professional Standards Review Organizations (PSRO's).

(a) *Standard: Written review plan.* An HMO must demonstrate to the Secretary that it has in operation a written internal review plan which provides for review of the quality, medical necessity, appropriateness, and promptness of services furnished by the HMO, whether directly or through arrangements, to Medicare enrollees.

(1) The plan must include written procedures for reviewing services rendered directly by the HMO's physicians and other health care professionals, and those rendered through arrangements with the HMO. These procedures may include, for example, a review by physicians of medical records that have been selected on a sample basis or on the basis of screening by other health care professionals or computer. Another possible approach is to undertake Medical Care Evaluation Studies (see § 405.1137(c)). Periodic computerized analyses in order to identify instances of possible improper utilization are an example of the type of study that could be used to meet this requirement in part. Further, the plan must include procedures for coordinating the HMO's internal review activities with such other activities as may be required under the Medicare program and also with those under the Professional Standards Review Organization (PSRO) provisions contained in title XI of the Act (42 U.S.C. 1320c et seq.).

(2) The plan must include written procedures for taking appropriate remedial action whenever it is determined that inappropriate or substandard services have been provided or that services which should have been furnished have not been provided. A written record of remedial actions taken shall be maintained by the HMO and made available to the Secretary upon request.

(3) The review plan may provide for the reviews to be performed under the auspices of a PSRO, a Foundation for Medical Care, or other review organization which is established and organized in a manner approved by the Secretary and that is capable of performing such function.

(b) *Standard: Information system.* The HMO has an information system, or access to such a system, which is capable of providing the information necessary for the carrying out of the program review activities outlined in paragraph (a) of this section.

(c) *Standard: Confidentiality.* The HMO must establish adequate procedures for assuring that all information obtained pursuant to paragraph (b) of this section is treated as confidential and is disclosed only to authorized persons.

§ 405.2012 Qualifying condition: Financial responsibility.

The HMO is required to demonstrate its financial responsibility so as to assure that Medicare beneficiaries and the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund are adequately protected against financial loss to or the insolvency of the organization.

(a) *Standard: Accounting system.* The HMO must have a system of accounting for income and expenses on an accrual basis. The accounting system should be able to identify income and expenses according to source or object, and should permit the allocation of costs to the HMO's several principal functions. Further, the system should be capable of producing timely reports to management regarding income and expense at least on a quarterly basis, and should provide reliable cost data for planning and budgeting for future operations as well as for determining the reasonable costs and per capita incurred costs of providing health services to Medicare enrollees. The HMO is also required to furnish to the Secretary or his designate comprehensive reports on the scope of its financial operations.

(b) *Standard: Insurance.* The HMO must have policies (or establish a reserve under a self-insurance program approved by the Secretary) which safeguard and insure its assets against fire, theft, fraud, embezzlement, malpractice, and other wastage and risks normally insurable and insured by reasonably prudent businessmen.

(c) *Standard: Solvency.* In addition to meeting any cash reserve or similar requirements imposed by State law or regulation, the HMO is required to demonstrate to the satisfaction of the Secretary that:

(1) It has a fiscally sound operation as demonstrated by a financial plan (or other financial statements specified by the Secretary) which indicates the achievement and maintenance of a positive cash flow, including provision for the retirement of existing and proposed indebtedness, and in the case of an HMO which has not yet reached its financial break-even point, it has adequate plans for obtaining contingency financing to cover its operating costs if it is unable to reach its financial break-even point on schedule;

(2) In the case of a mature HMO (see § 405.2001(b)(1)) that elects to contract on an incentive basis, it has the financial ability to assume the risk of any costs that might be reasonably anticipated during the contract period in excess of the adjusted average per capita cost (see § 405.2001(b)(1)) in its area. Evidence of financial ability may include a self-insurance program, a reinsurance plan, or other satisfactory arrangements.

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PART III

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

■

NAVAJO-HOPI JOINT USE AREA

Grazing and Protective Regulations

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Subchapter B—Law and Order

PART 12—JOINT USE LAW AND ORDER

Establishment of Protective Regulations

JUNE 24, 1975.

This notice is published in exercise of rule-making authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 33360 of the FEDERAL REGISTER of September 17, 1974 (39 FR 33360) there was published a notice of proposed rule-making to add a new Part 12 to Title 25 of the Code of Federal Regulations relating to the establishment of protective regulations, both civil and criminal for the Indian people residing within the boundaries of the Hopi-Navajo Joint Use Area. These regulations were proposed pursuant to authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

During this period comments, suggestions, and objections were submitted by interested persons. Careful consideration was given to the comments received and certain revisions were made as a result of them. The revisions were added as follows:

(1) Subpart H—General Provisions, was revised by using the Model Code with the exception of former § 12.26 Hot Pursuit, § 12.33 Contraband, Confiscated, and Abandoned Property, and § 12.34 Taking Children into Custody.

(2) The following sections have been deleted from Subpart M: § 12.77 Adultery, § 12.79 Assault with a Deadly Weapon, § 12.80 Assault with Intent to Commit Rape, § 12.81 Assault with Intent to Cause Serious Bodily Injury, § 12.82 Assault with Intent to Kill, § 12.84 Begging and Soliciting, and § 12.107 Incest. § 12.92 Aiding and Abetting and § 12.10 Conspiracy have been added to Subpart M.

The new Part 12 shall become effective August 1, 1975.

A new Part 12 is added to Subchapter B, Chapter I, of Title 25, of the Code of Federal Regulations to read as follows:

Subpart A—Title, Purpose and Definitions

Subpart B—Judicial Power

Subpart C—The Court of Appeals

Subpart D—Joint Use Trial Court

Subpart E—Jurisdiction of Joint Use Court

Subpart F—Rules and Court Powers

Subpart G—Court Officials

Subpart H—General Provisions

Subpart I—Sentencing

Subpart J—Civil Actions

Subpart K—Domestic Relations

Subpart L—The Juvenile Court

Subpart M—Criminal Code

Subpart N—Land; Livestock and Area Regulation Offenses

AUTHORITY: 5 U.S.C. 301; R.S. 463 and 465; 25 U.S.C. 2 and 9.

Subpart A—Title, Purpose and Definitions

§ 12.1 Title.

The provisions contained in Part 12 shall be known as the "Joint Use Law and Order Code."

§ 12.2 Purpose.

(a) It is the purpose of the regulations in this code to provide protection through adequate Law Enforcement machinery, both civil and criminal, for those Indian persons residing within the boundaries of the Hopi-Navajo Indian Reservation as defined by the United States District Court for the District of Arizona. (A suit authorized by the Act of July 22, 1958, 72 Stat. 403, Pub. L. 85-547)

(b) The regulations in this code shall continue to apply until such time as a duly constituted joint governing body with fully delegated authority from their respective tribes prescribes and adopts a new code.

(c) Nothing in this code will prevent adoption by the governing body of ordinances applicable to the needs of the people residing in this area. After secretarial approval, such ordinances shall be controlling and the regulations of this part which may be inconsistent therewith shall no longer be applicable.

(d) The regulations in this code shall be enforced by the Court of Indian Offenses known as the Joint Use Court as provided in 25 CFR Part 12 et seq.

§ 12.3 Definitions.

In this code, unless the context otherwise requires:

(a) "Adult" shall mean a person who is 18 years of age or older.

(b) "Code" and "Law and Order Code" shall mean the Law and Order Code of the Joint Use Area.

(c) "Indian" shall mean any person of Indian descent who is a member of any recognized Indian tribe under federal jurisdiction.

(d) "Non-Indian" shall mean a person who is not an Indian.

(e) "Person" shall mean a natural person, Indian and where relevant, a corporation or unincorporated Indian association.

(f) "Property" shall mean both real and personal property.

(g) "Joint Use Courts" shall mean the Trial Court and Court of Appeals for the Joint Use Area.

(h) "Project Officer" means the Project Officer of the Bureau of Indian Affairs Joint Use Administrative Office, Flagstaff, Arizona 86001, to whom has been delegated the authority of the Commissioner to act in all matters respecting the Joint Use Area.

Subpart B—Judicial Power

§ 12.4 Judicial power.

The judicial powers within the Joint Use Area shall be vested in a Court of Appeals and a Trial Court.

Subpart C—The Court of Appeals

§ 12.5 Jurisdiction.

The Court of Appeals shall have jurisdiction to hear appeals from final orders and final judgments of the Trial Court as provided in the Appeal provisions contained herein.

§ 12.6 Composition.

The Court of Appeals shall consist of a single Judge, other than the presiding Judge of the Court which rendered the order or judgment from which appeal is taken. Where the Chief Judge is the Judge of the rendering Court, an Associate Judge shall sit as the Appeal Court Judge, with at least two other Judges to hear the appeal.

§ 12.7 Sessions.

The Court of Appeals shall meet within twenty working days after notice of an appeal or application for other relief has been filed with the Clerk of the Court, or as soon thereafter as possible.

Subpart D—Joint Use Trial Court

§ 12.8 Composition.

The Joint Use Trial Courts shall consist of a Judge appointed by the Commissioner of Indian Affairs or his duly appointed representative. There shall be a Chief Judge whose duties shall be full time; and there may be one or more Associate Judges who may be called to serve when the occasion arises. The Associate Judges may be hired on contract and compensated on a per diem basis.

§ 12.9 Court sessions.

(a) Regular sessions of the Trial Courts may be held on a regular workday at times and places designated by the Chief Judge.

(b) Special sessions of the Trial Courts may be held as necessary upon call of the Chief Judge: *Provided,* That such sessions are held at reasonable times and places.

§ 12.10 Qualifications of judges.

Any person over the age of 21 years shall be eligible to serve as a Judge of the Joint Use Court if he has never been convicted of a felony or, within one year then last past, been convicted of a misdemeanor other than a minor traffic violation. Such person shall complete a course of training in judicial procedures.

§ 12.11 Disqualification.

No Judge shall hear or determine any case wherein he has any direct interest or wherein any relative, by marriage or blood in the first or second degree, is a party. Any party to a proceeding may raise the issue of the qualification of the Judge to hear the case.

§ 12.12 Removal.

(a) Any Judge of a Joint Use Court may be suspended, dismissed, or removed by the Commissioner of Indian Affairs or his representative for any of the following reasons:

(1) Conviction of felony in any court;

(2) Conviction of any offense involving moral turpitude in any court;

(3) Conviction of the offense of disorderly conduct;

(4) Being under the influence of alcoholic beverages while presiding over a Joint Use Court;

(5) Any other conduct unbecoming to a Judge of the Joint Use Court.

(b) A Judge shall be given full and fair opportunity to reply to any and all charges for which he may be removed from his judicial office.

Subpart E—Jurisdiction of Joint Use Court

§ 12.13 Criminal jurisdiction.

(a) The Trial Court of the Joint Use Area shall have jurisdiction over all offenses enumerated in the Joint Use Law and Order Code when committed by any Indian within the Joint Use Area.

(1) All Indian persons employed by the Bureau of Indian Affairs shall be subject to jurisdiction of the Joint Use Courts.

(b) The jurisdiction of the Joint Use Courts shall be exclusive of any other court. With respect to any offense enumerated herein over which a Federal Court may assert jurisdiction, the jurisdiction of the Joint Use Court shall be concurrent and not exclusive.

§ 12.14 Civil jurisdiction.

A Trial Court of the Joint Use Area shall exercise the civil jurisdiction provided in Subpart J, § 12.60 of this Law and Order Code.

Subpart F—Rules and Court Powers

§ 12.15 Court rules.

The Chief Judge of the Joint Use Trial Court shall promulgate rules to govern the proceedings in the Joint Use Trial Courts, subject to the approval of the Project Officer of the Joint Use Area, Provided that such rules shall not abridge, enlarge, or modify any substantive rights and shall preserve the right of trial by jury as provided in Subpart H, § 12.45 of this Chapter.

§ 12.16 Powers of the courts.

The Court of Appeals and the Trial Courts shall have, but not be limited to, the following powers:

(a) To punish for contempt any of its officers or other persons present at judicial proceedings;

(b) To compel witnesses to attend and testify and to produce documents or other tangible objects to be used as evidence: Provided, That a defendant in a criminal trial may not be compelled to be a witness against himself.

Subpart G—Court Officials

§ 12.17 Officers of the courts.

Officers of the Joint Use Courts shall include:

(a) Court Clerks and court interpreters;

(b) Police Officers, Probation Officers, and other persons when carrying out orders of the Courts;

(c) Professional and lay counsel representing parties before the Courts; and

(d) Bailiffs.

§ 12.18 Court clerks.

(a) A person shall be employed to serve the Courts of the Joint Use Area and shall be known as the Clerk of the Court. Additional clerks may be employed as necessary.

(b) The Clerk of the Court is charged with the duty of assisting the lawful functioning of the Courts. Such duties shall include, but not be limited to, the following:

(1) Drafting complaints, subpoenas, warrants, writs, or other orders of the Court;

(2) Maintaining records of court proceedings;

(3) Administering oaths;

(4) Collecting and accounting for fines and other property taken into the custody of the Courts;

(5) Accepting bonds; and

(6) Filing notices of appeal and petitions.

§ 12.19 Representation before the Joint Use Courts.

A person before the Courts of the Joint Use Area may represent himself or have another person or a professional attorney serve as his counsel.

Subpart H—General Provisions

§ 12.20 Public records.

Except as otherwise provided in this Code, the Joint Use Courts shall keep open for inspection by duly qualified officials a record of all proceedings of each Court. Such record shall reflect the title of the case, the names and addresses of parties and witnesses, the substance of the complaint, the date of the hearing or trial, by whom conducted, the findings of the Court or jury, and the judgment or order entered, together with any other facts or circumstances deemed of importance to the case.

§ 12.21 Copies of laws.

The Courts of the Joint Use Area shall be provided with, or have access to, all tribal, Federal and state laws and regulations of the Bureau of Indian Affairs applicable to the conduct of persons within the boundaries of the Joint Use Area.

§ 12.22 Complaints.

(a) All criminal prosecutions for violation of the Law and Order Code shall be initiated by complaint. A complaint is a written statement sworn to by the complaining witness and charging that a named individual(s) has committed a particular criminal offense.

(b) Complaints shall contain:

(1) The signature of the complaining witness sworn to before a judge or an individual designated by the Chief Judge; and

(2) A written statement by the complaining witness describing in ordinary language the nature of the offense committed including the time and place as nearly as may be ascertained; and

(3) The name or description of the person alleged to have committed the offense; and

(4) The section of the Law and Order Code allegedly violated.

(c) The Chief Judge of the Joint Use Court may designate an individual who shall be available to assist persons in drawing up complaints and who shall screen them for sufficiency. Complaints shall then be submitted without unnecessary delay to a judge to determine whether a warrant or summons should be issued.

(d) If the complaint, or the complaint together with other sworn statements, is sufficient to establish probable cause to believe that a crime has been committed by the person charged, the court shall issue a warrant pursuant to § 12.24 of this Code instructing the police to arrest the named accused or, in lieu thereof, the court shall issue a summons commanding the accused to appear before the court at a specified time and place to answer to the charge.

(e) When an accused has been arrested without a warrant, a complaint shall be filed forthwith with the court for review as to whether probable cause exists to hold the accused, and in no instance shall a complaint be filed later than at the time of arraignment.

§ 12.23 Arrests.

(a) Arrest is the taking of a person into police custody in order that he may be held to answer for a criminal offense.

(b) No police officer shall arrest any person for a criminal offense set out in the Law and Order Code except when:

(1) The officer shall have a warrant signed by a Judge of the Joint Use Courts commanding the arrest of such person, or the officer knows for a certainty that such a warrant has been issued; or

(2) The offense shall occur in the presence of the arresting officer; or

(3) The officer shall have probable cause to believe that an offense has been committed and that the person to be arrested has committed the offense.

§ 12.24 Arrest warrants.

(a) Every judge of the Joint Use Courts shall have authority to issue warrants to arrest and such warrants shall be issued only upon a showing of probable cause in sworn written statements. The trial judge shall deny the issuance of a warrant, if he finds that there is not probable cause to believe that the offense charged has been committed by the named accused.

(b) The arrest warrant shall contain the following information:

(1) Name or description and address, if known, of the person to be arrested.

(2) Date of issuance of the warrant.

(3) Description of the offense charged.

(4) Signature of the issuing judge.

§ 12.25 Notification of rights at time of arrest.

Upon arrest the suspect shall be advised of the following rights:

(a) That he has the right to remain silent.

(b) That any statements made by him may be used against him in court.

(c) That he has the right to obtain counsel at his own expense.

§ 12.26 Summons in lieu of warrant.

(a) When otherwise authorized to arrest a suspect a police officer or a judge may, in lieu of a warrant, issue a summons commanding the accused to appear before the Joint Use Court at a stated time and place and answer to the charge.

(b) The summons shall contain the same information as a warrant, except that it may be signed by a police officer.

(c) If a defendant fails to appear in response to a summons, a warrant for his arrest shall be issued.

§ 12.27 Hot pursuit.

A police officer may arrest a person beyond the territorial boundaries of the Joint Use Area when such officer has probable cause to believe that the person has committed an offense and is attempting to escape arrest.

§ 12.28 Search warrant-defined.

A search warrant is a written order, signed by a Joint Use Court judge, and directed to a police officer ordering him to conduct a search and seize items or property specified in the warrant. A warrant shall describe the property or place to be searched and shall describe the items to be seized.

§ 12.29 Issuance of search warrant.

(a) Every Joint Use Courts judge shall have the power to issue warrants for the search and seizure of property and premises of any person under the jurisdiction of the court.

(b) No warrant of search and seizure shall be issued except upon probable cause that a search will discover: stolen, embezzled or contraband or otherwise criminally possessed property; property which has been or is being used to commit a criminal offense; or property which constitutes evidence of the commission of a criminal offense. Such probable cause shall be supported by a duly signed, written and sworn statement based upon reliable information.

§ 12.30 Execution and return of search warrant.

Warrants of search and seizure shall only be executed by police officers. The executing officer shall return the warrant to the Joint Use Court within the time limit shown on the face of the warrant, which in no case shall be longer than 10 days from the date of issuance. Warrants not returned within such time limits shall be void.

§ 12.31 Search without a warrant.

No police officer shall conduct any search without a valid warrant except:

(a) Incident to making a lawful arrest; or

(b) With consent of the person being searched; or

(c) When he has probable cause to believe that the person searched may be armed and dangerous; or

(d) When the search is of a moving vehicle and the officer has probable cause to believe that it contains contraband, stolen, or embezzled property.

§ 12.32 Contraband, confiscated, and abandoned property.

(a) The disposition of all property, confiscated as contraband, seized as evidence, or otherwise taken into the custody of the Court, shall be determined at a hearing before a Trial Court.

(b) The Trial Court shall, upon satisfactory proof of ownership, order such property to be delivered to the rightful owner, unless such property is required as evidence. When the property is required as evidence, it shall not be returned until final judgment in the case is entered. In no case shall property be returned where possession of such property is unlawful; such property may be declared property of the United States. However, property delivered to the custody of the Court by a private person shall become the property of such person if it is not claimed within 30 days after the hearing.

(c) Any property declared to be the property of the United States may be dealt with as authorized by Federal law.

(d) The Clerk of the Court shall keep written records of all transfers and dispositions of property taken into the custody of the Court.

(e) Contraband shall mean:

(1) Any property, under Joint Use Law, which is illegal to possess.

§ 12.33 Arraignment.

(a) Arraignment is the bringing of an accused before the court, informing him of his rights and of the charge against him, receiving his plea, and setting bail as appropriate in accordance with § 12.36 of this Code.

(b) Arraignment shall be held in open court without unnecessary delay after the accused is taken into custody and in no instance shall arraignment be later than the next regularly scheduled session of court.

§ 12.34 Rights of accused at arraignment.

Before an accused is required to plead to any criminal charge the judge shall:

(a) Read to the accused and determine that he understands the complaint and the section of the Law and Order Code which he is charged with violating, including the maximum authorized penalty; and

(b) Advise the accused that he has the right to remain silent; to be tried by a jury; and to be represented by counsel at his own expense and that the arraignment will be postponed should he desire to consult with counsel.

§ 12.35 Receipt of plea at arraignment.

(a) If the accused pleads "not guilty" to the charge, the judge shall then inform him of a trial date and set conditions for bail prior to trial.

(b) If the accused pleads "guilty" to the charge the judge shall determine that the plea is made voluntarily and that the accused understands the consequences of the plea, including the rights which he is waiving by the plea. The judge may then impose sentence or defer sentencing for a reasonable time in order to obtain any information he deems necessary for the imposition of a just sentence. The accused shall be afforded an opportunity to inform the court of facts in mitigation of the sentence.

(c) If the accused refuses to plead, the judge shall enter a plea of not guilty on his behalf.

§ 12.36 Bail—Release prior to trial.

Every person charged with a criminal offense before the Joint Use Court shall be entitled to release from custody pending trial under whichever one or more of the following conditions is deemed necessary to reasonably assure the appearance of the person at any time lawfully required:

(a) Release on personal recognizance upon execution by the accused of a written promise to appear at trial and all other lawfully required times.

(b) Release to the custody of a designated person or organization agreeing to assure the accused's appearance.

(c) Release with reasonable restrictions on the travel, association, or place of residence of the accused during the period of release.

(d) Release after deposit by the accused or a bondsman's bond in either cash or other sufficient collateral in an amount specified by the judge or a bail schedule. The judge, in his discretion, may require that the accused post only a portion of the total bond, the full sum to come due if the accused fails to appear as ordered.

(e) Release after execution of bail agreement by two responsible members of the community.

(f) Release upon any other condition deemed reasonably necessary to assure the appearance of the accused as required.

§ 12.37 Bail—Release by police officer.

Any Police Officer authorized to do so by the court may admit an arrested person to bail pursuant to the bail schedule or release upon personal recognizance. Police Officers shall have available a bail schedule prepared by the court which shall be used for setting money bond where such condition of release is deemed necessary. Any Police Officer who refuses to release an accused on bail or who specifies a bail condition which the accused is unable to satisfy shall bring such accused before a judge for review of the release conditions at the first available opportunity and without unnecessary delay.

§ 12.38 Bail—Release pending appeal.

Every person who has been convicted of an offense and who has filed an appeal or a petition for a writ of habeas corpus shall be treated in accordance with the provisions of § 12.36 of this chapter unless the judge has substantial reason to believe that no conditions of release will reasonably assure the appearance of the accused or that release of the accused is likely to pose a danger to the community, to the accused, or to any other person. If the judge finds such to be the case he may order detention of the accused.

§ 12.39 Withdrawal of guilty plea.

The court may, in its discretion, allow a defendant to withdraw a plea of guilty whenever it appears that the interest of justice and fairness would be served by doing so.

§ 12.40 Issuance of subpoenas.

(a) Upon request of any party to a case or upon the court's own initiative, the court shall issue subpoenas to compel the testimony of witnesses, or the production of books, records, documents or any other physical evidence which is relevant and necessary to the determination and not an undue burden on the person possessing the evidence of the case. The clerk of the court may act on behalf of the court and issue subpoenas which have been signed by a judge and which are to be served within the confines of the Joint Use Area.

(b) A subpoena shall bear the signature of the Chief Judge or an Associate Judge of the Joint Use Court and it shall state the name of the court, the name of the person or description of the physical evidence to be subpoenaed, the title of the proceeding, and the time and place where the witness is to appear or the evidence is to be produced.

§ 12.41 Service of subpoena.

(a) A subpoena may be served at any place within or without the confines of the Joint Use Area but any subpoena to be served outside the Joint Use Area shall be issued personally by a judge of the Joint Use Court.

(b) A subpoena may be served by any Police Officer or other person appointed by the court for such purpose. Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at his place of residence with any competent person 16 years of age or older who also resides there.

(c) Proof of service of the subpoena shall be filed with the clerk of the court by noting on the back of a copy of the subpoena the date, time, and place that it was served and noting the name of the

person to whom it was delivered. Proof of service shall be signed by the person who actually served the subpoena.

§ 12.42 Failure to obey subpoena.

In the absence of a justification satisfactory to the court, a person who fails to obey a subpoena may be deemed to be in contempt of court and a bench warrant may be issued for his arrest.

§ 12.43 Witness fees.

(a) Each witness answering a subpoena shall be entitled to a fee as set by rules of the Joint Use Courts and approved by the Project Officer for each day his services are required in court. In addition, the court may order the payment of reasonable travel and living expenses of the witness.

(b) The fees and expenses provided for in this section shall be paid to the witness upon completion of the trial, but such expenses may be taxed as costs against the defendant if he is found guilty, provided, however, that no defendant shall be incarcerated solely because of his inability to pay such costs immediately.

(c) If the court finds that a complaint was not filed in good faith but with frivolous or malicious intent, it may order the complainant to reimburse the Joint Use Court for the expenditures incurred under this section, and such order shall constitute a judgment upon which execution may levy.

§ 12.44 Trial procedure.

(a) The time and place of court sessions, and all other details of judicial procedure shall be set out in rules of court adopted pursuant to § 12.15 of this Code.

(b) The court shall not be bound by common law rules of evidence, or the rules of evidence which pertain in state or federal courts.

§ 12.45 Jury trial.

(a) A jury trial shall be held if:

(1) Requested by either party in a civil case; or

(2) Requested by the defendant in a criminal case where imprisonment is a possible penalty for the offense charged.

(b) A list of eligible jurors shall be prepared and maintained by the Project Officer of the Joint Use Administrative Office or his representative. Any person over the age of 21 years, not subject to judicial restraint by any court, and who resides within the Joint Use Area may be listed as an eligible juror. Jurors shall be compensated at a rate recommended by the Judge and approved by the Project Officer of the Joint Use Administrative Office.

(c) A jury shall consist of seven persons chosen at random by the presiding Judge from the persons listed as eligible to serve as jurors.

(d) Each party shall have the right to challenge an unlimited number of jurors for cause on the basis of lack of qualifications, partiality, or other acceptable reason. Whether or not cause exists shall be determined by the Judge in all instances. In addition, each party shall have the right to a maximum of three peremptory challenges for jurors, for which no reasons need be given and which the judge may not refuse to grant.

(e) The judge shall instruct the jury with regard to the applicable law and the jury shall decide all questions of fact on the basis of that law.

(f) The jury shall deliberate in secret and return a verdict of guilty or not guilty. The judge shall render judgment in accordance with the jury verdict.

(g) A jury may render a verdict by majority vote in civil cases and find the defendant guilty by a vote of 6 to 1 in criminal cases.

§ 12.46 Contempt of Court.

(a) The Judges of the Joint Use Courts may rule a person in contempt of court if he willfully and unjustifiably, disrupts, obstructs, or otherwise interferes with the due and orderly course of proceeding in the courtroom, after being advised by the Court to cease.

(b) All rulings of, and sentences for, contempt shall be announced immediately after the acts of contempt occur.

(c) A person found in contempt of court may be sentenced to imprisonment for a period not to exceed 30 days or to pay a fine not to exceed $150, or both.

§ 12.47 Commitments.

(a) No person shall be detained, jailed, or imprisoned for more than 36 hours pursuant to an arrest unless there be issued an express or conditional commitment order signed by a duly qualified Judge of a Trial Court. Any person arrested on a Friday, Saturday, or a day before a legal holiday who does not provide bail may be held in custody pending arraignment until noon of the next regular business day of the Trial Court.

(b) There shall be issued for each person held for trial a temporary commitment order and, for each person held after sentencing, a final commitment order.

§ 12.48 Right of appeal.

(a) Any party to a case, other than the prosecution in a criminal case, who is aggrieved by a final order or final judgment of a Trial Court, shall have the right to appeal to the Joint Use Court of Appeals.

(b) The appealing party shall file with the Clerk of the Court a notice of appeal along with a filing fee of $5 within ten (10) days after the entry of the final order or final judgment from which appeal is taken. The filing fee may be waived in the appeal of a criminal conviction if the defendant files an affidavit swearing that he is without funds to pay the filing fee. If the Court of Appeals finds that the appellant is without funds to pay the filing fee, it shall order that the fee be permanently waived.

(c) If the Court of Appeals finds that any or a combination of the following has occurred, it shall order the judgment or order reversed or may remand the case for retrial:

(1) Irregularities in the proceedings or conduct by the jury, adverse party, or his counsel prejudicial to the appellant;

(2) Any ruling, order, or abuse of discretion which may have prevented a fair trial;

(3) Newly discovered evidence which could not, with reasonable diligence, have been produced at trial;

(4) Insufficient evidence to support the verdict;

(5) Any error of law occurring at the trial prejudicial to the appellant; or

(6) Any other reason which would warrant reversal by a court when reviewing a similar appeal.

(d) If the Court of Appeals finds that reversal under paragraph (c) of this section is unwarranted, it shall affirm the judgment or order appealed from; no further appeal shall thereafter be permitted.

§ 12.49 Taking children into custody.

(a) A child may be taken into custody:

(1) Pursuant to an order of the Court in a juvenile proceeding;

(2) For an act of delinquency pursuant to the laws of arrest;

(3) By a police officer when he has reasonable grounds to believe that the child is suffering from illness or that the child's surroundings are such as to endanger his health, morals, and welfare and that his removal is necessary; or

(4) By a police officer when he has reasonable grounds to believe that the child is a runaway from his parents, guardian, or other custodian.

(b) Immediately upon taking a juvenile into custody, the arresting officer must immediately advise the juvenile of his rights (Miranda Warnings), and notify the juvenile's parents, guardian or other custodian.

(c) Unless a juvenile who is taken into custody is prosecuted as an adult, he may not be fingerprinted or photographed without the written consent of the judge, and neither his name nor picture shall be made public by any medium of public information in connection with the juvenile proceedings.

(d) In all cases if the parents, guardian, or custodian, of a child taken into custody without a court order can be located and are willing and able to take the child under their care, the child shall be surrendered to their care pending any juvenile proceedings or other court orders.

§ 12.50 Cooperation by Federal employees.

(a) No field employee of the Bureau of Indian Affairs shall obstruct, interfere with, or control the functions of the Joint Use Courts or influence such functions in any manner except as permitted by the regulations or in response to a request for advice or information from the Court.

(b) Employees of the Bureau of Indian Affairs, particularly those engaged in social, health, or education services, shall assist the courts upon their request in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

Subpart I—Sentencing

§ 12.51 Nature of Sentences.

Except as otherwise provided hereunder, a person found guilty of violating a provision of the Joint Use Criminal Code, Subpart M, may be sentenced to the penalty provided in such offense. Sentences shall be imposed without unreasonable delay and shall not exceed the maximum penalties provided by law. The penalties provided for the offense are maximum penalties and should be imposed only in extreme cases.

§ 12.52 Sentences of Imprisonment.

(a) A person sentenced to imprisonment may work for the benefit of the Hopi or Navajo Tribes or for the benefit of the Joint Use Area. Any work performed shall reduce the sentence at the rate of two days of incarceration for each day of work performed. "Day of work" shall mean at least four hours of work performed in any 24-hour period. Any work performed shall be under the supervision of any person authorized by the Court.

(b) Any sentence of imprisonment shall be reduced by any time spent in jail before judgment was entered.

§ 12.53 Payment of fines.

(a) Any person sentenced to pay a fine shall pay such fine in cash or money order to the Clerk of the Court who shall issue a receipt therefor.

(b) If the full amount of the fine cannot immediately be paid, the Court may provide for the payment of such fine in installments.

§ 12.54 Failure or inability to pay fines.

(a) A sentence of imprisonment shall not be imposed upon any indigent person in the form of an alternative to a fine, i.e. "dollars or days."

(b) Any person sentenced to pay a fine shall not be imprisoned to work off such fine if, by reason of indigency, he is unable to pay the fine imposed.

(c) Any person who is presently able to pay a fine or an installment of a fine and who willfully refuses to do so may be ordered imprisoned for, or allowed to work off, the unpaid amount of the fine at the rate of $5.00 per day for each day in jail or $10.00 for a day of work performed.

§ 12.55 Commutation of sentence.

The Judge of the sentencing Court may, at any time that one-half or more of an original sentence of imprisonment has been served, commute such sentence to a lesser period upon proof that the person sentenced served without misconduct.

§ 12.56 Suspension of sentence; probation.

(a) The Judge of the sentencing Court may suspend any sentence upon condition that the defendant comply with such reasonable terms and conditions as the Court deems necessary.

(b) When considering suspending any sentence, the Court shall consider the prior record of the defendant, his background, character, financial condition, family and work obligations, the circumstances of the offense, and attempts at restitution.

§ 12.57 Violation of suspended sentence.

(a) Any person accused of violating the terms or conditions of his suspended sentence shall be afforded a hearing before the sentencing Court to determine the truth of the accusations.

(b) Where, by a preponderance of testimony, a person is found to have violated the terms or conditions of his suspended sentence, such person may be ordered to serve his original sentence or any portion thereof.

§ 12.58 Disposition of fines.

All money fines imposed for the commission of an offense shall be in the nature of an assessment of the payment of designated Court expenses. Such expenses may include the payment of fees to jurors and witnesses answering a subpoena. All fines assessed and collected shall be paid over to the Project Officer of the Joint Use Administrative Office or his disbursing agent to be deposited in a special account labeled "Special Deposit, Court Funds" to the disbursing agent's credit in the Treasury of the United States. The disbursing agent shall withdraw such funds in accordance with existing federal regulations upon the order of the Clerk of the Court signed by a Judge of the Court for payment of specific fees to the jurors and witnesses. The disbursing agent and the Clerk of the Court shall keep an accounting of all such deposits and withdrawals for the inspection of any interested person.

Whenever such funds shall exceed the amount necessary for the payment of court expenses hereinbefore mentioned, the Project Officer of the Joint Use Administrative Office shall designate further expenses of the Court which shall be paid by these funds.

§ 12.59 Civil remedies not precluded.

The imposition or suspension of any penalty, on condition of restitution to one whose person or property has been injured, for the commission of any offense under this Code shall not preclude an application for any civil remedy for such injuries.

Subpart J—Civil Actions

§ 12.60 Jurisdiction.

(a) Except as otherwise provided, the Joint Use Courts shall have jurisdiction over all suits wherein:

(1) The cause of action arose within the Joint Use Area or the defendant is a resident of the Joint Use Area.

(b) With respect to any Civil Suit over which the Hopi or Navajo Tribal Courts may have jurisdiction, the jurisdiction of the Joint Use Courts shall be concurrent and not exclusive.

§ 12.61 Judgments—Notice.

No judgment shall be entered on any suit unless the defendant has received actual notice of such suit or notice served at the last known residence of the defendant and had a reasonable opportunity to appear in court and defend himself. Proof of notice served at the last known residence of the defendant shall be made by affidavit filed promptly with the court. Evidence of receipt of notice shall be kept as part of the record in the case. In all civil suits, the complainant may be required to deposit with the clerk of the court a fee or other security in a reasonable amount to cover costs and disbursements in the case.

§ 12.62 Laws applicable in civil suits.

(a) In all civil suits, the Court shall apply any laws of the United States that may be applicable; any authorized regulations of the Interior Department; or any ordinances or customs of the defendant's tribe not prohibited by such federal laws.

(b) Where doubt arises as to customs and usages of a tribe, the Court may request the advice of counselors familiar with such customs and usages. Any matters that are not covered by customs and usages, by tribal ordinances or by applicable federal laws and regulations shall be decided by the Court according to the laws of the State of Arizona.

§ 12.63 Judgments in civil actions.

(a) In all civil cases, judgment shall consist of an order of the Court awarding money damages to be paid to the injured party or the performance of some other act for the benefit of the injured party.

(b) Where the injury inflicted was the result of carelessness of the defendant, the judgment shall fairly compensate the injured party for the loss suffered.

(c) Where the injury was deliberately inflicted, the judgment may impose an additional penalty upon the defendant.

(d) Where the injury was inflicted as a result of accident and where both the complainant and the defendant were at fault, the judgment shall compensate the injured party for a reasonable part of the loss he suffered.

§ 12.64 Costs in civil actions.

The Court may assess the accruing cost of the case against the party or parties against whom judgment was rendered. Such costs shall consist of the expenses of voluntary witnesses for which either party may be responsible and the fees of jurors in those cases where a jury trial is had and any further expenses connected with the proceeding before the Court as the Court may direct.

§ 12.65 Payment of judgments from individual monies.

(a) Whenever the Court shall have ordered payment of money damages to an injured party and the losing party refuses to make such payment within time set for payment by the Court and when the losing party has sufficient funds in his Individual Indian Monies account to pay all or part of the judgment, the disbursing agent in control of the losing party's I.I.M. account shall pay over to the injured party the amount

of the judgment or such lesser amount as may be specified by the Secretary from the account of the delinquent party.

(b) A judgment shall be considered a lawful debt in all proceedings to distribute an Indian decedent's estate.

§ 12.66 Full faith and credit to other tribal court judgments.

Full faith and credit shall be given by the Joint Use Court to the judgments of the Navajo and Hopi Civil Courts, as well as other competent tribunals.

§ 12.67 Appeal.

In all civil cases, any party aggrieved by a judgment may appeal from a decision of the rendering Court to the Court of Appeals upon giving notice of such appeal at the time of judgment or within five (5) days thereafter and upon giving proper assurance to the Trial Judge through the posting of a bond or assurance that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established herein, the judgment of the Trial Court shall not be executed until after final disposition of the case by the Court of Appeals.

Subpart K—Domestic Relations

§ 12.68 No jurisdiction in domestic matters.

(a) The Joint Use Courts shall have no jurisdiction over suits to dissolve marriages, to adopt children, to determine paternity and support, or to terminate parental rights. Suits involving these matters are to be referred to the Hopi and Navajo Tribal Courts as the circumstances require.

(b) The Joint Use Courts shall have no power to issue marriage certificates. Where a valid marriage certificate has been procured in accordance with Hopi and Navajo Tribal ordinances, the Joint Use Courts may validly solemnize a marriage where solemnization is required by tribal ordinance. All Indian marriages shall be recorded within three months at the agency in which either or both of the parties reside.

§ 12.69 Determination of heirs.

If an Indian shall die leaving property, other than an allotment or other trust property subject to the jurisdiction of the United States, any person claiming to be an heir of the decedent shall bring suit in the appropriate tribal court to have that court determine the heirs of the decedent and distribute the property.

§ 12.70 Probate of wills.

If an Indian shall die leaving a will disposing of property, other than an allotment or other trust property subject to the jurisdiction of the United States, the appropriate tribal court shall determine the validity of the will.

§ 12.71 Recognition of marriages and divorces.

(a) The Joint Use Courts shall not recognize any tribal custom marriage or divorce unless such marriage or divorce was consummated or procured in accordance with the laws of the jurisdiction where such marriage or divorce was consummated or procured.

(b) All marriages and divorces, if recognized as valid in the jurisdiction where consummated or procured, shall be recognized as valid in the Joint Use Courts.

Subpart L—The Juvenile Court

§ 12.72 Definitions.

In this subpart unless the context otherwise requires:

(a) "Minor" or "child" means a person under the age of 18 years.

(b) "Adult" means a person aged 18 years or more.

(c) "Act of delinquency" means an act which if committed by an adult would be punishable as an offense defined under Subpart M of this Code.

(d) "Delinquent child" or "delinquent" means a child who has committed an act of delinquency and is in need of care or rehabilitation.

(e) "Neglected child" means a child:

(1) Who has been abandoned by his parents, guardian, or other custodian;

(2) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the faults or habits of his parents, guardian or other custodian, or their neglect or refusal, when able to do so, to provide them; or

(3) Whose parents, guardian, or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity.

(f) "Child" of "person in need of supervision" means a child who:

(1) Being subject to compulsory school attendance, is habitually truant from school; or

(2) Habitually disobeys the reasonable and lawful demands of his parents, guardian, or other custodian, and is ungovernable and beyond their control.

(g) "Legal custody" means a legal status created by court order which vests in a custodian the right to have temporary physical custody of the child or minor.

(h) "Probation" shall mean a legal status created by court order following an adjudication of delinquency, whereby a minor is permitted to remain in his home subject to supervision and return to the Court for violation of probation at any time during the period of probation.

(i) "Protective supervision" means a legal status created by court order in neglect cases whereby the minor is permitted to remain in his home under supervision, subject to return to the Court during the period of supervision.

(j) "Custodian" means a person other than a parent or guardian to whom legal custody of the child has been given by court order or who is acting in loco parentis.

§ 12.73 Composition.

The Judges of the Trial Court shall act as the Juvenile Court in proceedings in which a child is to be adjudicated neglected, in need of supervision, or delinquent.

§ 12.74 Juvenile matters.

(a) Where a child is accused of committing an offense under the Joint Use Criminal Code, a Judge of the Joint Use Court may either:

(1) If the child is over sixteen years old, proceed with the case as a regular criminal matter, when the interest of justice requires; or

(2) Declare the proceeding a juvenile matter and proceed as provided in paragraph (b) of this section.

(b) In any case where a child is accused of committing an act of delinquency, charged with being a child in need of supervision, or deemed as a neglected child, the Court shall order the proceedings to be adjudicated in a confidential manner.

§ 12.75 Preliminary hearing.

Upon the filing of a petition alleging the need for supervision or court intervention, the Court shall order a preliminary hearing to determine the sufficiency of the petition and to determine whether a full hearing should be ordered.

§ 12.76 Notification of hearing.

(a) The Court shall order delivery of the summons along with a copy of the petition alleging delinquency, need of supervision or neglect:

(1) To the child, if he is over the age of 14 years or is alleged to be delinquent or in need of supervision;

(2) To the parents, guardian, or custodian of the child;

(3) To the spouse of a married child;

(4) To any other person the Court deems necessary and proper to the proceedings.

(b) The summons shall order the appearance of the persons before the Court at the preliminary hearing. The summons shall be served personally on the party named in the summons within three (3) days after the filing of the petition and not less than two (2) days before the date set for the preliminary hearing.

§ 12.77 Right to representation.

In delinquency and in need of supervision cases, a child and his parents, guardian, or custodian shall be advised by the Court or its representatives that the child may be represented by counsel, In neglect cases, the parents, guardian, or custodian shall be advised of their right to retain counsel. In any juvenile proceeding, the Court may appoint counsel where it appears counsel will not or cannot be retained.

§ 12.78 Proceedings.

(a) At the preliminary hearing the specific allegations in the petition shall be presented to the parties named in such petition. The named parties shall either admit or deny the allegations in the petition.

(b) If the allegations are admitted, the Court may proceed with the disposition of the case.

(c) If the allegations are denied, the Court shall set a date for full hearing at which the parties may present evidence.

§ 12.79 Consent decrees.

(a) At any time after the filing of the petition, the Court, on its own motion or on motion by the child or the child's parents, guardian, or custodian, may suspend the proceedings and continue the child under the supervision of the Court in the child's own home, subject to such terms and conditions as the Court deems necessary and as agreed upon by the parties affected. The Court, on its own motion and at any time, may dismiss the complaint or petition if it feels that court adjudication is unnecessary or unwarranted under the circumstances.

(b) Consent decrees shall remain in effect for six (6) months unless the child is sooner discharged by the Court.

§ 12.80 Full hearings; proceedings.

(a) If, at the full hearing, the Court finds on the basis of a valid admission or a finding based on proof beyond a reasonable doubt that a child committed the acts of which he is alleged to be delinquent or is in need of supervision, it may proceed with the disposition of the case.

(b) If the Court finds from clear and convincing proof that a child is neglected, it may proceed with the disposition of the case.

(c) After any findings in paragraphs (a) or (b) of this section, the Court may immediately, or at a later date, hold a disposition hearing wherein any information relevant to the proper disposition of the child may be received. Such information may be received by the Court to the extent of its probative value despite the fact that it would not have been admissible in the hearing on the complaint or petition. The parties shall be afforded an opportunity to examine and controvert such information and to cross-examine any persons responsible for such information.

§ 12.81 Rights and Privileges.

(a) Any child charged with being delinquent or in need of supervision shall be accorded the privilege against self-incrimination. Additionally, illegally seized or obtained evidence shall not be received by the Court to establish any allegations against the child.

(b) An extra-judicial admission or confession made by a child is insufficient to support a finding that the child committed the acts alleged unless such admission or confession is corroborated by other admissible evidence.

(c) In all cases, procedural due process shall be afforded at all stages of any juvenile proceeding.

§ 12.82 Disposition.

(a) If a child is found by the Court to be neglected, the Court may make any of the following orders of disposition to protect the welfare of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian subject to such conditions and limitations as the Court may prescribe;

(2) Place the child under protective supervision;

(3) Transfer legal custody to a Hopi or Navajo tribal agency or other public agency subject to the orders of the Court until Hopi or Navajo Tribal Court jurisdiction is exercised; or

(4) Transfer custody to a responsible relative or other adult person who is found by the Court to be qualified to receive, care for, and supervise the child.

(b) If a child is found to be delinquent or in need of supervision, the Court may make any of the following orders of disposition for his supervision, care, and rehabilitation:

(1) Any order authorized by paragraph (a) of this section for the disposition of a neglected child; or

(2) An order placing the child on probation under such terms and conditions as the Court may prescribe.

§ 12.83 Order of adjudication, non-criminal.

An order of disposition or other adjudication in juvenile proceedings shall not be deemed a conviction for a crime. The disposition of a child and evidence given in any juvenile proceeding shall not be admissible against the child in any case or proceeding in any other court, whether before or after he has reached majority except where the matter has been referred to another Juvenile Court of the Navajo or Hopi Tribes.

§ 12.84 Limitation on dispositional orders.

(a) An order of probation or protective supervision shall remain in force no longer than 6 months unless the child is sooner released by the Court.

(b) When a child reaches the age of 18 years, all orders affecting him pronounced by the Juvenile Court shall terminate, and he shall be released from probation or protective supervision under such orders.

§ 12.85 Petition to revoke probation.

(a) A child, subject to court supervision or orders, incident to an adjudication as a delinquent child or a child in need of supervision, who violates any terms imposed by the Court may be proceeded against in a hearing to revoke probation.

(b) Probation shall not be revoked except upon a showing by clear and convincing proof that a term or condition of the child's probation was violated. Probation revocation proceedings shall be governed by the rights and duties applicable to delinquency and in need of supervision cases contained in this subpart.

(c) If a child is found to have violated a term or condition of his probation, the Court may extend the period of probation or make any other disposition allowed under Section 12.82, Disposition.

§ 12.86 Appointment of guardian ad litem.

At any stage of a juvenile proceeding, the Court may appoint a guardian ad litem for a child who is a party to the proceeding, if the child has no parents, guardian, or custodian or if his natural or adoptive parents are not in a position to exercise effective guardianship.

§ 12.87 Protective orders.

In any juvenile proceeding, upon application of a party, or on motion by the Court, the Court may enter an order restraining the conduct of any party over whom the Court has obtained jurisdiction if:

(a) An order of disposition of a delinquent or neglected child or a child in need of supervision has been entered; and

(b) The Court finds that the person's conduct is or may be detrimental or harmful to the child, and will tend to defeat the execution of the order or disposition; and

(c) Due notice of the application or court motion and the grounds therefor has been given to the persons against whom the order is directed, provided that such person has been given an opportunity to be heard.

§ 12.88 Records; publication prohibited.

(a) The records of proceedings in juvenile matters shall be kept separate from other court records and shall not be open to anyone other than the parties to the proceeding, the Court, or other persons authorized by court order.

(b) No part of the record shall be published by a newspaper or other agency disseminating news or information, nor shall a newspaper or agency publish the name of a child charged with being delinquent, in need of supervision, or neglected.

§ 12.89 Destruction of records.

When a child, who has been in a delinquent or a need of supervision proceeding, attains the age of 18 years, the Court shall order the Clerk of the Court to completely destroy all records of such proceedings involving such child.

Subpart M—Criminal Code

§ 12.90 Definitions.

In this subpart, unless the context otherwise requires:

(a) "Adult" shall mean a person who is 18 years of age or older.

(b) "Bodily injury" shall mean impairment of physical condition or substantial pain.

(c) "Deadly weapon" shall mean any instrument used in such a manner as to render it capable of causing death or serious bodily injury.

(d) "Dangerous weapon" shall mean an instrument of the type described in § 12.99 of this subpart.

(e) "Serious bodily injury" shall mean physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(f) "Sexual contact" shall mean any contact of the sexual or other private parts of another for the purpose of arousing or gratifying sexual desire of either party.

(g) "Person" shall mean an Indian person.

(h) "Range management personnel" shall mean the Project Officer of the Joint Use Area or his representatives.

§ 12.91 Abduction.

(a) A person who willfully takes or entices away:

(1) Any child under the age of 18 years from his parents, guardian, or custodian; or

(2) Any person from his lawful custodian, knowing he has no lawful right to do so, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty ($180) dollars, or both.

§ 12.92 Aiding and abetting.

(a) When an act is declared an offense under this Code, and no punishment for counseling or aiding in the commission of the act is expressly prescribed by law, a person who counsels or aids another in the commission of the act is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed the maximum penalty for the offense for which he aided and abetted.

§ 12.93 Assault.

(a) A person who unlawfully attempts or threatens to cause bodily injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed twenty ($20) dollars, or both.

§ 12.94 Battery.

(a) A person who:

(1) Willfully and unlawfully uses force or violence upon the person of another; or

(2) By threatening force or violence, causes another to harm himself; or

(3) Recklessly causes physical injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.95 Bigamy.

(a) A person who marries another person while having a husband or wife living is guilty of an offense.

(b) Paragraph (a) of this section shall not apply to any person whose husband or wife has been absent for five years, without being known to such person within that time to be living, nor to any person whose former marriage has been dissolved by any court of competent jurisdiction.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) dollars, or both.

§ 12.96 Bribery—Giving.

(a) A person who gives or offers to give to another person money, property or other thing of value with intent to influence a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.97 Bribery—Receiving.

(a) A public servant who asks, receives, or offers to receive from another, money, property, or other thing of value, with intent or upon a promise to be influenced in the discharge of his public duties, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.98 Bribery—Soliciting.

(a) A person who obtains or seeks to obtain money, property, or other thing of value, upon a claim or representation that he can or will improperly influence the action of a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.99 Carrying a concealed weapon.

(a) A person who has concealed on or about his person a dangerous weapon is guilty of an offense.

(b) A dangerous weapon as used in paragraph (a) of this section shall include any:

(1) Airgun, blowgun, explosive device, pistol, or other firearm;

(2) Bayonet, dagger, switchblade, bowie knife, or other kind of knife;

(3) Sling shot, club, blackjack, or chain;

(4) Sword, sword cane, or spear;

(5) Metal knuckles; or

(6) Any other instrument capable of lethal use, possessed under circumstances not appropriate for lawful use.

(c) A folded pocket knife with a blade 3" or less is not considered a dangerous weapon, except a switchblade.

(d) Paragraph (a) shall not apply to any person authorized by the tribal, state, federal governments, or subdivisions thereof to carry such weapons.

(e) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

(f) Any weapons concealed in violation of this section shall be subject to seizure and forfeiture as provided in Section 12.32 of Subpart H.

§ 12.100 Child molesting.

(a) A person who:

(1) Engages in sexual intercourse with a person under the age of 16 years, not his spouse; or

(2) Subjects a person under the age of 16 years, not his spouse, to any sexual contact is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.101 Conspiracy.

(a) A person is guilty of conspiracy if, with the intent to commit or to have another person commit any action constituting an offense under this Code, he conspires with one or more persons to engage in or cause the commission of such action.

(b) No agreement amounts to a conspiracy unless some act besides such agreement is done to effect the object thereof by one or more of the parties to the agreement.

(c) Upon a trial for conspiracy, the defendant shall not be convicted unless one or more overt acts are expressly alleged in the complaint, nor unless one of the acts alleged is proved, but other overt acts not alleged may be given in evidence.

(d) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed 180 days (6 months) or to pay a fine not to exceed $500, or both.

§ 12.102 Contributing to the delinquency of a minor.

(a) An adult person who:

(1) Knowingly causes, encourages, or advises a minor to commit an offense as defined under the provisions of Subpart M of this Law and Order Code; or

(2) Knowingly causes, encourages, or assists a minor to be delinquent as defined under the provisions of Subpart L of this Law and Order Code is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.103 Criminal negligence.

(a) A person who:

(1) Recklessly endangers the safety of another; or

(2) Acts with careless disregard for the safety of another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.104 Criminal trespass.

(a) A person who:

(1) Enters or remains upon any public property for an unlawful purpose; or

(2) Without good cause enters, remains upon, or traverses private lands or

other property not his own, where notice against trespassing has been reasonably communicated by the owner or occupant is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.105 Cruelty to animals.

(a) A person who wantonly or maliciously inflicts pain, suffering, or death upon any animal is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.106 Disobedience to a lawful order of the Court.

(a) A person who willfully disobeys any order, subpoena, warrant, or command duly issued by a Joint Use Court or any Officer thereof is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed Fifty ($50) dollars, or both.

§ 12.107 Disorderly conduct.

(a) A person who:

(1) Engages in fighting or provokes a fight;

(2) Disrupts any lawful public or religious meeting;

(3) Causes unreasonable noise; or

(4) Uses language or gestures knowing them to be obscene or likely to provoke a fight is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.108 Disposing of property of an estate.

(a) A person who, without proper authority, uses, sells, transfers, or otherwise disposes of any property of an estate before the determination of devisees, heirs, or other distributees is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) dollars, or both.

§ 12.109 Escape.

(a) A person who willfully escapes, attempts to escape, or assists in an escape, from lawful custody, is guilty of an offense.

(b) "Lawful custody" shall mean confinement by court order or actual or constructive restraint by a police officer pursuant to an arrest.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) dollars, or both.

§ 12.110 Extortion.

(a) A person who compels or induces another person to deliver property to himself or to a third person by threatening that if the property is not delivered, the actor or another will:

(1) Cause physical injury to some person; or

(2) Cause damage to property; or

(3) Accuse some person of a crime or cause criminal charges to be instituted against some person; or

(4) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule; or

(5) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(6) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty in such manner as to affect some person adversely is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.111 Failing to submit to treatment for a contagious disease.

(a) A person who knows or has reason to know that he is infected with a venereal disease, active tuberculosis, or other contagious disease and who willfully exposes another to the disease, in a place other than a medical facility, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, *Provided,* That such sentence shall be suspended if the offender agrees to medical treatment.

(c) The Court upon finding reasonable cause to believe that a person has any of the above diseases may order the person examined. If, upon examination, the person is found to be infected with any of the diseases, the Court may order the person to submit to medical treatment as prescribed by competent medical authority.

§ 12.112 Failure to send children to school.

(a) A person who, without good cause, fails or refuses to send his children or any children under his care to school, while such children are between the ages of 6 and 16, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.113 Failure to support.

(a) A person who knowingly and without justification fails to support, care for, or protect a spouse, child, or other person for whose support he is responsible is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) dollars, or both.

§ 12.114 Forgery.

(a) A person who, with intent to defraud,

(1) Falsely signs, completes, or alters any written instrument; or

(2) Passes as genuine that which he knows to be a forged instrument is guilty of an offense.

(b) "Forged instrument" shall mean a written instrument which has been falsely signed, completed, or altered.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty ($180) dollars, or both.

§ 12.115 Fraud.

(a) A person who obtains property:

(1) By willful misrepresentation of act; or

(2) By falsely interpreting; or

(3) By failure to reveal facts which he knows should be revealed, with intent to defraud another of such property is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty ($180) dollars, or both.

§ 12.116 Gambling.

(a) A person who knowingly stakes or risks a thing of value in a game of chance upon an agreement or understanding that he or some other person may receive something of value depending on the outcome is guilty of an offense.

(b) Under paragraph (a) of this section, "bingo", raffles, and lotteries shall not be considered games of chance when conducted by religious or charitable organizations authorized by the Tribal Councils of either the Hopi or Navajo Tribes to conduct such games.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed Twenty ($20) dollars, or both.

§ 12.117 Illicit cohabitation.

(a) A person who lives or cohabits as man and wife with another person, while not being married to such person, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.118 Indecent exposure.

(a) A person who willfully exposes his sexual organs to public view under circumstances in which he knows or should

know such conduct is likely to offend others is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.119 Inhaling toxic vapors.

(a) A person who inhales the vapors or fumes of paint, gas, glue, or other toxic product for the purpose of becoming intoxicated is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.120 Interfering with an officer.

(a) A person who willfully prevents or attempts to prevent a police officer from effecting an arrest or from otherwise discharging his official duty by:

(1) Creating a substantial risk of bodily harm to the officer or any other person; or

(2) Employing means of resistance which justify or require substantial force to overcome is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.121 Joyriding.

(a) A person who, without proper authority, operates, or otherwise uses any vehicle, not his own, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.122 Liquor violation.

(a) A person who possesses, sells, trades, transports, or manufactures any beer, ale, wine, whiskey, or any other beverage which produces alcoholic intoxication is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.123 Littering.

(a) A person who intentionally:

(1) Discards or deposits any trash, garbage, debris, or other refuse upon any highway, road, or public place, or upon any land, not his own; or

(2) Permits any trash, garbage, debris, or other refuse to be thrown from a vehicle which he is operating is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.124 Maintaining a public nuisance.

(a) A person who:

(1) Endangers the health or safety of another; or

(2) Interferes with the enjoyment of property by another, by wilfully or negligently permitting a hazardous, unsightly, or unhealthy condition to exist on property under his possession or control is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ten (10) days or to pay a fine not to exceed Ten ($10) dollars, or both.

(c) In addition to any penalty imposed under paragraph (b) of this section, the Court shall order that the nuisance be abated within a reasonable time.

§ 12.125 Misusing property.

(a) A person who, without proper authority, knowingly uses or damages any property not his own is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed Twenty ($20) dollars, or both.

§ 12.126 Narcotics and dangerous drugs.

(a) Any person who knowingly possesses, sells, trades, transports, gives away, uses, or manufactures:

(1) Any opium, cocaine, coca leaves, morphine, codeine, heroin, or any derivative thereof; or

(2) Any drugs known as hallucinogen, psychotomimetics, dysleptic, or psychedelics incuding lysergic acid diethylamide (LSD), mescaline, psilocybin, dimethyltrystamine (DMT), and methydimethoxy methyl-phenylethylamine (STP); or

(3) Any drug scheduled as a "controlled substance" under the provisions of Title 21, Chapter 13 of the United States Code, as amended to the date of arrest, is guilty of an offense.

(b) Paragraph (a) of this section shall not apply to any transaction, possession, production, transportation, or use for medical purposes under the prescription or supervision of a person licensed to administer, prescribe, control, or dispense of the prescribed substances in that paragraph.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.127 Perjury.

(a) A person who knowingly makes a false statement while under oath, or who induces another to do so, or who signs an affidavit knowing the same to be false, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) dollars, or both.

§ 12.128 Peyote violation.

(a) A person who for other than religious purposes possesses, sells, trades, transports, gives away the bean, or any form of the bean, known as peyote is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed six (6) months or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.129 Possession of marijuana.

(a) A person who plants, cultivates, harvests, sells, trades, gives away, uses or possesses marijuana is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) dollars, or both.

§ 12.130 Prostitution.

(a) A person who:

(1) Solicits or practices prostitution; or

(2) Knowingly provides, keeps, rents, leases, or otherwise maintains any place or premises for the purpose of prostitution is guilty of an offense.

(b) "Prostitution" shall mean engaging in sexual intercourse or sexual contact for a consideration.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed seventy (70) days or to pay a fine not to exceed Seventy ($70) dollars, or both.

§ 12.131 Public intoxication.

(a) A person who appears in a public place while under the influence of alcohol, marijuana, toxic vapors, or substances the use or possession of which is prohibited under §§ 12.122 and 12.126 of Subpart M of this Code, not therapeutically administered, to the degree that he may reasonably endanger himself or other persons or property, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.132 Receiving stolen property.

(a) A person who buys, receives, conceals, or aids in concealing any property which he knows or should know has been obtained by theft, extortion, fraud or other means constituting an offense under the provisions of this Law and Order Code is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.133 Refusing to aid an officer.

(a) A person who willfully refuses to assist a police officer;

(1) In the lawful arrest of any person;

(2) In conveying a lawfully arrested person to the nearest place of confinement, when such assistance is reasonably requested, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed Fifty ($50) dollars, or both.

§ 12.134 Removal or destruction of antiquities.

(a) A person who, without proper authority, removes, excavates, injures, or destroys any historic or prehistoric ruin or monument or any object of antiquity is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.135 Shoplifting.

(a) A person who willfully takes possession of any goods offered for sale by any mercantile establishment, without the consent of the owner or manager, with the intent to convert such goods to his own use without paying for them, is guilty of an offense.

(b) A person who willfully conceals or attempts to conceal any goods offered for sale:

(1) On his person or among his belongings; or

(2) On the person, or among the belongings of another, is presumed to have taken possession of such goods with the intent to convert them to his own use without paying for them.

(c) A police officer, merchant, or merchant's employee who has reasonable cause to believe that a person has willfully taken possession of goods with the intent to convert them without paying for them may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time.

(d) If a police officer, merchant, or mechant's employee detains and interrogates a person pursuant to paragraph (c) of this section and the person thereafter brings civil or criminal action against the police officer, merchant, or merchant's employee, based upon the detention and interrogation, such reasonable cause shall be a defense to the action if the detention and interrogation were performed in a reasonable manner and for a reasonable time.

(e) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.136 Theft.

(a) A person, who unlawfully takes or exercises control over property not his own, whether or not possession was originally obtained with consent of the owner, with the intent of permanently depriving the owner of the value or use of the property for the benefit of himself or another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.137 Unlawful burning.

(a) A person who:

(1) Willfully and unlawfully causes or attempts to cause damage to any property by fire or explosion; or

(2) Negligently causes damage to any property by fire or explosion; or

(3) Sets fire to any forest, brush, or grasslands, or sets a campfire, with careless disregard for the spread or escape of such fire, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days or to pay a fine not to exceed One Hundred and Twenty ($120) dollars, or both.

§ 12.138 Unlawful restraint.

(a) A person who unlawfully causes the removal, detention, or confinement of another person so as to interfere with that person's liberty is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) dollars, or both.

Subpart N—Land; Livestock and Area Regulation Offenses

§ 12.139 Branding livestock of another.

(a) A person who:

(1) Willfully brands or marks an animal with a brand or mark other than the recorded brand or mark of the owner of the animal; or

(2) Willfully alters or obliterates any brand or mark on any animal not his own with intent to convert the animal to his or some third person's use without the consent of the owner is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.140 Cutting green timber without permission.

(a) A person who cuts or removes any green timber from lands within the Joint Use Area without written permission from the Project Officer or his representative is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.141 Failure to control livestock diseases and parasites.

(a) A person, who willfully refuses to dip or treat any livestock under his ownership or control in accordance with orders or directions initiated by authorized range management personnel of the Joint Use Area is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.142 Game violation.

(a) A person, who knowingly kills, attempts to kill, or catches any deer or game animal within the Joint Use Area without the written permission from the Project Officer or his representative is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

(c) "Game animal" shall mean any animal for which the Hopi or Navajo Tribes require a tribal permit to hunt, kill, or catch.

§ 12.143 Grazing, introduction without a permit.

(a) A person who:

(1) Knowingly permits livestock under his ownership or control to graze upon lands within the Joint Use Area; or

(2) Willfully introduces or causes the introduction of any livestock into unalloted or unallocated lands within the Joint Use Area without a valid permit issued by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.144 Livestock roundups.

(a) A person, who willfully hinders, harrasses, obstructs, or otherwise interferes with persons conducting roundups authorized by range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.145 Making false reports of stock owned.

(a) A person who:

(1) Knowingly makes a false report as to the total number of stock under his ownership or control; or

(2) Willfully refuses to report the number of stock under his ownership or control, when required or requested by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.146 Refusal to brand or mark livestock.

(a) A person, who willfully refuses to brand or mark any livestock under his ownership or control when required or requested by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.147 Refusal to dispose of cull or infected animals.

(a) A person, who willfully refuses to dispose of or remove any cull or infected animals designated for disposal or re-

moval by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.148 Trespass—Inter-district.

(a) A person, who knowingly permits any livestock under his ownership or control to occupy or graze upon land allocated to another or land reserved by range management personnel for demonstration, administration or agricultural purposes, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.149 Unauthorized use of range.

(a) A person who willfully:

(1) Grazes livestock under his ownership or control in the Joint Use Area in excess of the number allowed under his grazing permit; or

(2) Refuses to graze livestock under his ownership or control in accordance with plans made public by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.150 Unauthorized fencing.

(a) A person, who fences any land knowing such fencing is not authorized by range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.151 Violation of regulations.

(a) A person who willfully:

(1) Violates any provision of 25 CFR Part 153; or

(2) Violates or refuses to comply with lawful orders and directions issued by the Secretary of the Interior or his representatives for the purpose of regulating the use or occupancy of the Joint Use Area is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.152 Other actions not precluded.

The arrest, conviction, or sentencing of any person for violating any provision contained in this part shall not preclude impoundment, seizure, or other authorized action taken by range management personnel for the enforcement of regulations for, or management of, the Joint Use Area.

Subpart O—Traffic Offenses

§ 12.153 Arizona traffic laws incorporated.

(a) A person, who violates any of the provisions under Chapter 6, Title 28 of the Arizona Revised Statutes pertaining to Traffic on Highways, is guilty of an offense.

(b) A person found guity under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

Subpart P—Removal of Non-members

§ 12.154 Who may be removed.

Any person not a member of the Hopi or Navajo Tribes who commits any act which would be a crime under state or Federal Law, or who violates any provisions of this Law and Order Code may be:

(a) Ordered from the Joint Use Area;

(b) Taken into custody for a removal hearing; or

(c) Taken into custody for delivery to State or Federal authorities for prosecution under State or Federal Law by a duly authorized Police Officer of the Joint Use Area.

§ 12.155 Hearing; removal; release.

(a) A person not a member of the Hopi or Navajo Tribes ordered from the Joint Use Area by a Police Officer may request a hearing before a Trial Court of the Joint Use Area to determine the validity of the Order.

(b) Upon a finding based upon preponderance of the evidence that the person ordered to leave the Joint Use Area committed a crime under State or Federal Law or violated a provision of this Law and Order Code, the court may:

(1) Order the person to leave the Joint Use Area; or

(2) Order the person to comply, under penalty of removal, with the requirements of a Court Order.

(c) If the Court finds that the person ordered to leave the Joint Use Area did not commit the acts alleged, it shall order the person released.

§ 12.156 Delivery to State or Federal authorities.

Any person ordered by the Trial Court to leave the Joint Use Area may:

(a) Be escorted under custody of a police officer to the exterior boundaries of the Navajo Reservation; or

(b) Be delivered into the custody of the state or federal authorities for prosecution under state or federal law.

Subpart Q—Extradition

§ 12.157 Apprehension in joint use area.

Whenever the Project Officer of the Joint Use Administrative Office is informed and believes that an Indian has committed a crime outside the Joint Use Area and is present in the Joint Use Area, using it as an asylum from prosecution, the Project Officer may order a police officer of the Joint Use Area to apprehend such Indian and deliver him to the authorities seeking his arrest at the boundaries of the Joint Use Area, if sought by the Navajo or Hopi Tribes, or at the exterior boundaries of the Navajo Indian Reservation, if sought by state authorities who have entered a reciprocal agreement with the Project Officer of the Joint Use Administrative Office for the return of persons sought by the Joint Use Courts.

§ 12.158 Hearing and release.

If a person, apprehended pursuant to § 12.157 of this part, so demands, he shall be taken by the arresting police officers to a Court of the Joint Use Area, where a Judge shall hold a hearing. If it appears that there is no probable cause to believe the Indian is guilty of the crime with which he is charged outside the Joint Use Area, or if it appears that the Indian probably will not receive a fair trial in the state court, the Judge shall order the Indian released from custody.

Subpart R—Other Provisions

§ 12.159 Coroners.

(a) The Project Officer of the Joint Use Administrative Office may appoint one or more coroners to serve the Joint Use Area. Such coroners shall serve without pay but may be reimbursed for actual and necessary expenses upon presentation of proper vouchers to the Project Officer of the Joint Use Administrative Office.

(b) Whenever a coroner is informed that an Indian has died within the Joint Use Area, the coroner shall go to the place where the body is located and inquire into the cause of death.

(c) After inspecting the body and conferring with a physician, if the coroner himself is not a physician, the coroner shall make a written report stating the following facts, if known:

(1) The name and census number of the dead person;

(2) When and where he died and the circumstances of his death;

(3) The cause of death;

(4) Who caused the death, if caused by act, whether criminal or not;

(5) What property is found on the body, other than clothing of ordinary value;

(6) Where the coroner is not a physician, the name and address of any physician consulted.

(d) The coroner shall submit copies of the report to the Joint Use Police and to the Project Officer of the Joint Use Administrative Office.

§ 12.160 Joint use Indian police.

The Project Officer of the Joint Use Administrative Office shall be recognized as commander of the Indian police of the Joint Use Area and shall be held responsible for the general efficiency and

conduct of the members thereof. It shall be the duty of the Project Officer or his duly authorized representative to keep himself informed as to the efficiency of the Indian police in the discharge of their duties, to subject them to regular inspection, to inform them of their duties, and keep a strict accounting of the equipment issued them in connection with their official duties. It shall be the duty of the Project Officer to detail such Indian Policemen as may be necessary to carry out the orders of the Joint Use Court and to preserve order during court sessions. The Project Officer shall investigate all reports and charges of misconduct on the part of Indian policemen and shall exercise such proper disciplinary measures as may be consistent with existing regulations.

§ 12.161 Police commissioners.

The Project Officer of the Joint Use Administrative Office may, with the approval of the Commissioner of Indian Affairs, designate as police commissioner any qualified person. Such Police Commissioner shall obey the orders of the Project Officer and see that the orders of the Joint Use Court are properly carried out. The police commissioner shall be responsible to the Project Officer for the conduct and efficiency of the Indian Police under his direction and shall give such instruction and advice to them as may be necessary. The police commissioner shall also report to the Project Officer all violations of law or regulation and any misconduct of any member of the Joint Use Indian Police.

§ 12.162 Police training.

It shall be the duty of the Project Officer to maintain from time to time as circumstances require and permit classes of instruction for the Indian policemen. Such classes shall familiarize the policemen with the manner of making searches and arrests, the proper and humane handling of prisoners, the keeping of records of offenses and the duties of the police in relation thereto, and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation with Indian communities in establishing better social relations.

§ 12.163 Indian policemen.

(a) The Project Officer of the Joint Use Administrative Office may, with the approval of the Commissioner of Indian Affairs, employ and appoint Indians as Indian Police whose qualifications shall be as follows:

(1) A candidate must be in sound physical condition and of sufficient size and strength to perform the duties required.

(2) He must be possessed of courage, self-reliance, intelligence, and a high sense of loyalty and duty.

(3) He must never have been convicted of a felony, nor have been convicted of any misdemeanor for a period of one year prior to appointment.

(b) The duties of an Indian policeman shall be:

(1) To obey promptly all orders of the police commissioner or the Joint Use Court when assigned to that duty;

(2) To lend assistance to brother officers;

(3) To report and investigate all violations of any law or regulation coming to his notice or reported for attention;

(4) To arrest all persons observed violating the laws and regulations for which he is held responsible;

(5) To inform himself as to the laws and regulations applicable to the jurisdiction where employed and as to the laws of arrest;

(6) To prevent violations of the laws and regulations;

(7) To report to his superior officers all accidents, births, deaths, or other events or impending events of importance;

(8) To abstain from the use of intoxicants or narcotics and to refrain from engaging in any act which would reflect discredit upon the police department;

(9) To refrain from the use of profane, insolent, or vulgar language;

(10) To use no unnecessary force or violence in making an arrest, search, or seizure;

(11) To keep all equipment furnished by the government in reasonable repair and order;

(12) To report the loss of any and all property issued by the government in connection with official duties;

(13) To collect and issue receipts for bail.

§ 12.164 Dismissal.

The Project Officer of the Joint Use Administrative Office may remove any Indian policeman for any noncompliance with the duties and requirements as set out in the police duty guidelines or for neglect of duty.

§ 12.165 Return of equipment.

Upon the resignation, death, or discharge of any member of the Indian police, all articles or property issued him in connection with his official duties must be returned to the Project Officer or his representative.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-16982 Filed 7-1-75;8:45 am]

SUBCHAPTER N—GRAZING

PART 153—NAVAJO-HOPI JOINT USE AREA GRAZING REGULATIONS

JUNE 24, 1975.

This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

The added responsibility of Pub. L. 93-531 authorizes and directs the Secretary of the Interior to reduce livestock numbers and institute conservation measures to restore grazing potential in the Joint-Use Area. New grazing regulations are needed to carry out this mandate and assure an orderly transition of managed resources after the court enters the final order of partitioning the Joint-Use Area.

Beginning on page 33373 of the FEDERAL REGISTER of September 17, 1974 (39 FR 33373), there was published a notice of proposed rulemaking to add a new Part 153 to Title 25 of the Code of Federal Regulations relating to the establishment of grazing regulations applicable to Navajo-Hopi Joint Use Area lands. This addition was proposed pursuant to the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

PART 153—NAVAJO-HOPI JOINT USE AREA GRAZING REGULATIONS

Sec.

AUTHORITY: The provisions of this Part 153 issued under 5 U.S.C. 301; R.S. 463 and 465; and 25 U.S.C. 2 and 9.

§ 153.1 Definitions.

As used in this Part 153, terms shall have the meanings set forth in this section.

(a) "Joint Use Committee" means a committee to be composed of three representatives selected by the Hopi Tribal Council and three representatives selected by the Navajo Tribal Council, to whom have been delegated the authority of each governing body to exercise the powers of each tribe in the Joint Use Area. A representative of the Joint Use Administrative Office, Flagstaff, Arizona 86001, shall be a non-voting representative. Rules of procedures shall be established by the Committee except the chairmanship of each successive meeting of the Committee shall be alternated between each tribal delegation and the individual delegate serving as chairman of any one meeting shall not have a vote.

(b) "Project Officer" means the Special Project Officer of the Bureau of Indian Affairs, Joint Use Administrative Office, Flagstaff, Arizona 86001, to whom has been delegated the authority of the Commissioner to act in all matters respecting the Joint Use Area.

(c) "Joint Use Area" means the area established by the United States District Court for the District of Arizona in the case entitled Healing v. Jones, 210 F. Supp. 125 (1962), which is inside the Executive Order Area (Executive Order of December 16, 1882) but outside Land Management District 6, and held and to be used by both Navajo and Hopi Tribes jointly.

(d) "Range unit" means a tract of range land designated as a management unit for administration of grazing.

(e) "Permit" means a revocable privilege granted in writing limited to entering on and utilizing forage by domestic livestock on a specified tract of land. The term permit as used herein shall include written authorizations issued to enable the crossing or trailing domestic livestock across specified tracts or range units.

(f) "Animal unit" means one adult cow with unweaned calf by her side or the equivalent thereof based on comparative forage consumption. Conversion factors to be accepted are: ewe, doe, buck, ram, 0.25; horse, mule, donkey, burro, 1.25 animal units.

(g) "Tribe" means a tribe, band, community, group, or pueblo of Indians.

(h) "Secretary" means the Secretary of the Interior.

(i) "Commissioner" means the Commissioner of Indian Affairs.

(j) "Allocate" means to apportion grazing privileges including the determination of who may graze livestock, the number and kind of livestock, and the place such livestock will be grazed.

§ 153.2 Authority.

It is within the authority of the Secretary to protect Indian trust lands against waste and to prescribe rules and regulations under which these lands may be leased or permitted for grazing.

§ 153.3 Purpose.

These regulations are issued to carry out the Secretary's trust responsibility of conserving range resources, promoting their proper use and affording equal utilization of these Joint Use Area resources by both tribes according to the judgment in Healing v Jones and subsequent proceeding thereafter. The regulations of this Part 153 apply only to the Navajo-Hopi Joint Use Area of the 1882 Executive Order Area. Parts 151 and 152 do not apply to the Navajo-Hopi Joint Use Area.

§ 153.4 Establishment of range units.

The Project Officer will use Soil and Range Inventory data to establish range units on the Joint Use Area to allow for a program of surface land use aimed at restoring the land to its full potential and maintaining this potential.

§ 153.5 Grazing capacity.

The Project Officer shall prescribe the maximum number and kind of livestock which may be grazed without inducing damage to vegetation or related resources on each range unit and the season, or seasons, of use to achieve the objectives of the land recovery program. The stocking rate upon which the grazing permits are issued shall be reviewed on a continuing basis and adjusted as conditions warrant.

§ 153.6 Grazing on range units authorized by permit.

Grazing use of range units is authorized only by a grazing permit. The Project Officer shall assign grazing privileges to each tribe so that each may have one-half the grazing capacity of the Joint Use Area. The Joint Use Committee will then, within 60 days, allocate use to members of each tribe. Grazing use by tribal enterprises will be permitted and permits may be issued in the name of the tribe. The eligibility requirements for receiving a permit shall be set forth by the Joint Use Committee. The Project Officer shall issue permits based on the determination by the Joint Use Committee.

§ 153.7 Kind of livestock.

The Joint Use Committee may determine, subject to the grazing capacity, the kind of livestock that may be grazed on the range units. In the event the Committee cannot act, the Project Officer shall make the determination.

§ 153.8 Grazing fees.

(a) The respective tribal governing bodies may determine whether grazing fees will be charged and the rate to be charged for the use of their respective shares of the Joint Use Area, and the proceeds therefrom shall inure to the benefit of the respective tribe charging fees.

(b) Annual grazing fees, if any, shall be paid in advance and payment shall be made to the Project Officer for immediate disbursement to the appropriate tribal treasurer.

§ 153.9 Duration of grazing permits.

The Joint Use Committee may determine the maximum duration of grazing permits not to exceed 5 years per permit period and subject to § 153.10(b). In the event the Committee does not act, the Project Officer is authorized to set the duration.

§ 153.10 Assignment, modification and cancellation of permits.

(a) Grazing permits shall not be assigned, subpermitted or transferred without the consent of the delegates to the Joint Use Committee from the tribe involved and the Project Officer.

(b) The Project Officer may revoke or withdraw all or any part of the grazing permit by cancellation or modification on 30 days written notice of violation of permit or special conditions affecting the land or the safety of the livestock thereon, as may result from flood, disaster, drought, contagious diseases, etc. Except in the case of extreme necessity, cancellation or modification shall be effected on the next annual anniversary date of the grazing permit following the date of notice. Revocation or withdrawal of all or any part of a grazing permit by cancellation or modification as provided herein shall be an appealable decision under 25 CFR Part 2, or any regulations which may supersede Part 2. For the purpose of taking an appeal, decisions of the Project Officer shall be considered under 25 CFR 2 in the same manner as taking an appeal of a decision of an Area Director.

§ 153.11 Conservation and land use provisions.

Grazing operations shall be conducted in accordance with recognized principles of good range management. Conservation management plans necessary to accomplish this will be made a part of the grazing permit.

§ 153.12 Range improvements; ownership; new construction.

Improvements placed on the permitted land shall be considered affixed to the land unless specifically excepted therefrom under the permit terms. Written permission to construct or remove improvements must be obtained from the Joint Use Committee and the Project Officer, who will specify the maximum time allowed for removal of improvements so excepted.

§ 153.13 Payment of tribal fees.

Fees and taxes exclusive of annual grazing rental provided for in Section 153.8 which may be assessed by the respective tribes in connection with grazing permits shall be billed for by the respective tribe and paid annually in advance to the designated tribal official. Failure to make payments will subject the grazing permit to cancellation and may disqualify the permittee from receiving future permits so long as he is delinquent.

§ 153.14 Special permit requirements and provisions.

All grazing permits shall contain the following provisions:

(a) Because the lands covered by the permit are in trust status, all of permittee's obligations on the permit and the obligations of his sureties are to the United States as well as to the joint beneficial owners of the land. Annual rent and other obligations under the terms of a valid grazing permit shall constitute a first lien on livestock permitted.

(b) The permittee agrees he will not use, cause, or allow to be used any part of the permitted area for any unlawful conduct or purpose.

(c) The permit authorizes the grazing of livestock only and the permittee shall not utilize the permitted area for hay cutting, hunting, post or timber cutting or any other use without authorization from the Project Officer.

§ 153.15 Violations.

In addition to the penalties provided in this part, violation of the provisions of this part are subject to penalties of the Law and Order Code applicable to the Joint Use Area.

§ 153.16 Fences.

Fencing will be erected by the Government around the perimeter of the Executive Order Area and Land Management District 6. Fencing of any other areas in

the Joint Use Area as from time-to-time may be required for a range recovery program shall be constructed after consultation with the tribes. Such fencing shall be erected at Government expense and such ownership shall be clearly identified by appropriate posting on the fencing. International destruction of federal property will be treated as a violation of the Federal Criminal Statutes (18 U.S.C. 1164).

§ 153.17 Livestock trespass.

In addition to any criminal liability, the owner of any livestock grazing in trespass on the Joint Use Area is liable to a civil penalty of $1 per head for each animal thereof for each day of trespass, together with the reasonable value of the forage consumed and damages to property injured or destroyed. The Project Officer shall take action to collect all such penalties and damages and seek injunctive relief when appropriate. All payments for such penalties and damages shall be divided equally between each tribe and credited to them. The following acts are prohibited:

(a) The grazing upon or driving across any of the Joint Use Area of any livestock without an approved grazing or crossing permit.

(b) Allowing livestock to drift and graze on lands without an approved permit.

(c) The grazing of livestock upon lands within an area closed to grazing of that class of livestock.

(d) The grazing of livestock by permittee upon any land withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of the livestock, after the receipt of notice from the Project Officer of such withdrawal, or refusal to remove livestock upon instructions from the Project Officer when an injury is being done to the Indian lands by reason of improper handling of livestock.

§ 153.18 Control of livestock diseases and parasites.

Whenever livestock within the Joint Use Area become infected with contagious or infectious diseases or parasites or have been exposed thereto, such livestock must be treated and the movement thereof restricted in accordance with applicable laws.

§ 153.19 Impoundment and disposal of unauthorized livestock.

Unauthorized livestock within any range unit of the Joint Use Area which are not removed therefrom within the periods prescribed by this regulation may be impounded and disposed of by the Project Officer as provided herein.

(a) When the Project Officer determines that unauthorized livestock use is occurring and has definite knowledge of the kind of unauthorized livestock, and knows the name and address of the owners, such livestock may be impounded anytime 5 days after written notice of intent to impound unauthorized livestock is mailed by certified or registered mail or personally delivered to such owners.

(b) When the Project Officer determines that unauthorized livestock use is occurring but does not have complete knowledge of the number and class of livestock or if the name and address of the owner thereof are unknown such livestock may be impounded anytime 15 days after the date of notice of intent to impound unauthorized livestock is first published in the local newspaper, posted at the nearest chapter house and in one or more local trading posts. The notice will identify the area or areas in which it will be effective.

(c) Unauthorized livestock on the Joint Use Area which are owned by persons given notice under paragraph (a) of this section, and any unauthorized livestock in areas for which a notice has been posted and published under paragraph (b) of this section, may be impounded without further notice any time within the twelve-month period immediately following the effective date of the notice or notices given under paragraphs (a) and (b) of this section.

(d) Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock will be published in the local newspaper, posted at the chapter house and in one or more local trading posts. The notice will describe the livestock and specify the date, time and place of sale. The date set shall be at least 5 days after the publication and posting of such notice.

(e) The owner may redeem the livestock any time before the time set for the sale by submitting proof of ownership and paying for all expenses incurred in gathering, impounding and feeding or pasturing the livestock.

(f) If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder, provided his bid is at or above the minimum amount set by the Project Officer. If a bid at or above the minimum is not received, the livestock may be sold at private sale at or above the minimum amount, reoffered at public sale, condemned and destroyed, or otherwise disposed of. When livestock are sold pursuant to this regulation, the Project Officer shall furnish the buyer a bill of sale or other written instrument evidencing the sale.

(g) The proceeds of any sale of livestock as provided herein shall be applied as follows: First, to the payment of all expenses incurred by the United States in gathering, impounding, and feeding or pasturing the livestock. Second, in payment of any penalties or damages assessed pursuant to § 153.17 of this part which penalties or damages shall be divided equally between two tribes as provided in said section. Third, any remaining amount shall be paid over to the owner of said livestock upon his submitting proof of ownership. If any proceeds remaining after payment of the first and second items noted above are not claimed within one year from the date of the sale, such remaining proceeds will be divided equally between the two tribes owning the land.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections were received, and the proposed regulations are hereby adopted without change and as set forth above.

The new Part 153 shall become effective August 1, 1975.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

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PART IV

FEDERAL ELECTION COMMISSION

■

Advisory Opinion Requests

FEDERAL ELECTION COMMISSION

[Notice 1975–7; AOR 1975–7 and 1975–8]

ADVISORY OPINION REQUESTS

In accordance with the procedures set forth in the Commission's Notice 1975–4, published on June 24, 1975 (40 FR 26660), Advisory Opinion Requests 1975–7 and 1975–8 are published today. Each of the Requests consists of inquiries from several sources which have been consolidated since they present similar, if not identical, issues.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views with respect to such requests within 10 calendar days of the date of the publication of the request in the FEDERAL REGISTER. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Request Section, 1325 K Street, NW., Washington, D.C. 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to the specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law citations.

AOR 1975–7: CONTRIBUTIONS AND EXPENDITURES RELATING TO THE CONSTITUENT SERVICES OF MEMBERS OF CONGRESS

A. *Nature of a Constituent Service Fund and Contributions To It. (Request summarized and edited by the Commission.)* Congressman Dave Evans has established two "fund-raising entities" to support his Congressional activities. The Dave Evans for Congress Committee has been designated by Congressman Evans as his principal campaign committee. The Dave Evans Constituent Services Fund is described as a non-partisan fund set up to collect monies to assist Congressman Evans in his services to the people of his congressional district.

The Congressman has planned a fund-raising affair, and all the proceeds of the function are to go to the Congressman's Constituent Services Fund. The Federal Election Commission (FEC) has been asked to issue an advisory opinion as to whether the Dave Evans Constituent Services Fund is a political committee within the definition of Title 2, section 431(d) and Title 18, section 591(d). Congressman Evans' office provided the following description of the Dave Evans Constituent Services Fund:

The Dave Evans Constituent Services Fund will be a non-partisan fund set up to collect monies to assist Congressman Evans in his service to the people of the Sixth District. Contributions to the fund will be used for printing newsletters; holding neighborhood office hours, conducting meetings and seminars with representatives of governmental and private agencies, and with elected and appointed officials of the cities, counties and towns of the District; holding periodic open house activities at the District and Washington offices, providing constituents with flags, publications and certain other items that must be purchased; and any other general expenses which, in the opinion of the Committee, are incurred in connection with the Congressman's service to his constituents. Proceeds of this Fund will not be used to present or promote the viewpoint of any political party or philosophy or to influence the re-election of Congressman Evans.

Congressman Evans also requests the FEC to issue an advisory opinion as to the legal requirements pertaining to the identification of the sponsor of the fund-raising event and the disclosure requirements for the use of the proceeds. The Congressman's office provided the following as a sample identification and disclosure provision:

The Dave Evans Constituent Services Fund is not a "political committee" as defined in the Federal Election Campaign Act of 1971, as amended. Therefore, a donation to the Fund is not tax deductible or subject to a tax credit as a "political contribution" pursuant to the Internal Revenue Code of 1954, as amended. Proceeds of the Fund will be used for printing of newsletters, news releases, meeting allowances or other non-political material; purchase of equipment, services or supplies; or any purpose which, in the opinion of the Committee, will assist Congressman Evans, directly or indirectly, in servicing the residents of Indiana's Sixth Congressional District.

THOMAS J. KERN,
Administrative Assistant for Congressman Dave Evans.

Source: Congressman David Evans by Thomas J. Kern, Administrative Assistant, 4th Floor Administration Building, Weir Cook Airport, Indianapolis, Indiana 40241 (May 6, 1975).

B. *Contributions to a Constituent Service Fund. (Request edited by the Commission.)*

DEAR MR. CURTIS: * * * A Pennsylvania corporation makes a contribution to a Public Service Committee, such as the one I have established which is used solely to defray the cost of newsletters, reports and questionnaires sent to constituents. Question: Is such a corporation within its legal bounds in making such a contribution or does it contradict present law governing political contributions? * * *

JOHN P. MURTHA,
Member of Congress.

Source: Congressman John P. Murtha, 431 Cannon House Office Building, Washington, D.C. 20515 (May 7, 1975).

C. *Expenditures To Poll Constituents. (Request edited by the Commission.)*

DEAR MR. CHAIRMAN: * * * Specifically, I would like Commission guidance on the question whether an incumbent Senator or Representative may engage in attitudinal research within his constituency if the purpose is to measure policy issues, job approval perceptions, etc. (not to include political trial heats) without having those expenditures allocated against any applicable spending limitation. Does the fact a Member may have announced his candidacy make a difference in the use of issue-oriented. opinion research? I have enclosed a sample list of the questions which might be used in the type of research for which I seek an advisory opinion.

JAKE GARN,
U.S. Senator.

Senator Garn's sample questions are:

I. STATISTICAL

1. Age.
2. Income.
3. Occupation.
4. Sex.
5. Political Registration.

II. OPEN END SAMPLES

1. What do you think is the most important issue facing the United States today?
2. What do you think is the most important issue facing your state today?
3. If you were the Congressman from this district and could make one change of improvement, what would it be?

III. FORCED RESPONSES

1. Do you favor or oppose re-establishment of wage and price controls now?
2. Do you favor or oppose placing a one-year lid on new federal spending programs?
3. Do you favor or oppose legislation placing restrictions on the sale of hand guns?
4. Do you favor or oppose rationing of gasoline by issuance of coupons to conserve energy?
5. Do you approve or disapprove of the way Senator ------ from this state is handhis job?
6. Why do you approve or disapprove?

Source: Senator Jake Garn, 4203 Dirksen Senate Office Building, Washington, D.C. 20510 (April 29, 1975).

AOR 1975–8: HONORARIUMS AND RELATED BENEFITS FOR MEMBERS OF CONGRESS

A. *Request of Congressman Dan Rostenkowski (Honorariums). (Request edited by the Commission.)*

DEAR MR. CHAIRMAN: * * * There is a need for a clarification of section 616 of Title 18 of the U.S. Code, which was added by the 1974 amendments to the campaign law. This section, which deals with the acceptance of honoraria by federal officials, has raised several questions concerning the suggestion of a charitable gift as an alternative to the acceptance of an honorarium.

To help clarify this matter, I would like to describe three * * * situations. I would appreciate your opinion as to the legality of each in order that Members of Congress will have a better understanding of the operation of this new provision.

Case No. 1.—A Member of Congress is offered a $500.00 honorarium as the keynote speaker at a convention. He has accepted $4,000.00 in honoraria during the current calendar year. He prefers not to accept an honorarium for this speaking engagement but suggests to the sponsors of the convention that if they are so inclined, they could give a $500.00 donation to either Charity A or Charity B, both bona fide charitable organizations. Such a donation would not be a prerequisite to or requirement for the making of the speaking engagement. The Member of Congress would not include the amount of any donation to the charity as an honorarium received for purposes of the $15,000.00 limit.

Case No. 2.—A Member of Congress is offered a $1,500.00 honorarium to be the keynote speaker at a convention. To date he has accepted $4,000.00 in total honoraria for the calendar year. The Member of Congress specifies that he will accept a $1,000.00 honorarium and suggests that if the sponsors of the convention are so inclined, they could make a $500.00 donation to either Charity A

or Charity B, both bona fide charitable organizations. Such a donation would not be a prerequisite to or a requirement for making the speaking engagement.

Case No. 3.—A Member of Congress is offered a $500.00 honorarium to be the keynote speaker at a convention. He has already accepted his $15,000.00 limit for honoraria in this calendar year. He accepts the speech and declines the honorarium. He suggests that if the sponsors of the convention are so inclined, they might want to donate part or all of the funds originally reserved for the honorarium to either Charity A or Charity B, both bona fide charitable organizations. Agreement to give such a donation would not be a prerequisite to or requirement for making the speaking engagement."

DAN ROSTENKOWSKI,
Member of Congress.

Source: Congressman Dan Rostenkowski, 2185 Rayburn House Office Building, Washington, D.C. 20515 (May 8, 1975).

B. *Request of Congressman Rhodes (Honorariums). (Request paraphrased by the Commission.)* Congressman Rhodes asks for an advisory opinion construing 18 U.S.C. 616, which limits the amount of honorariums elected officers may accept in any calendar year ($15,000) as well as for any specific appearance ($1,000). The specific question raised is whether a Member of Congress, who has already received the full amount of honoraria permitted by the cited statute, would be in violation of the law if he or she requires or requests that the sponsors of the Member's appearance donate an amount equal to, but in lieu of the honorarium, directly to "bona fide charities" named by the Member or the donor.

Source: Congressman John J. Rhodes, Office of the Minority Leader, H–232, The Capitol, Washington, D.C. 20515 (May 6, 1975).

C. *Joint Request of Senators Mansfield and Scott (Reimbursement of Travel Expenses). (Request edited by the Commission.)*

DEAR MR. CHAIRMAN: Section 616 of Title 18 prohibits Members of Congress, among others, from accepting more than $15,000 in honorariums in any calendar year. Of course, some Members will reach that limit in a shorter period of time than others. In such cases, would those Members be able to accept speaking engagements, receive no honorarium, and still be able to have travel and subsistence expenses paid for by the sponsor?

On a related issue, could such a sponsor be a party to this kind of arrangement if that sponsor would ordinarily and otherwise be prohibited from making campaign contributions? * * *

MIKE MANSFIELD,
Majority Leader.

HUGH SCOTT,
Republican Leader.

Source: Senator Mansfield, Senator Scott, Office of the Minority Leader, Room: S–230, The Capitol, Washington, D.C. 20510.

Date: June 26, 1975.

THOMAS B. CURTIS,
Chairman, for the Federal Election Commission.

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